Calendar No. 676

97TH CONGRESS *2d Session*	SENATE	REPORT No. 97-474

MILITARY CONSTRUCTION CODIFICATION ACT

REPORT

[To accompany S. 2645]

ON

A BILL TO AMEND TITLE 10, UNITED STATES CODE, AND TO REVISE AND CODIFY THE PERMANENT PROVISIONS OF LAW RELATING TO MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

JUNE 17 (legislative day, JUNE 8), 1982—Ordered to be printed

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97TH CONGRESS, 2d Session | SENATE | REPORT No. 97-474

MILITARY CONSTRUCTION CODIFICATION ACT

JUNE 17 (legislative day, JUNE 8), 1982.—Ordered to be printed

Mr. THURMOND, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 2645]

The Committee on Armed Services, having had under consideration the question of military construction codification, reports the following bill (S. 2645), to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing, and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to revise and codify the permanent provisions of law relating to military construction and military family housing. The bill would:

Revise and codify in a new chapter of title 10, United States Code, recurring provisions of the annual Military Construction Authorization bill S. 2645;

Revise and codify in the new chapter permanent provisions of law enacted in annual Military Construction Authorization Acts, but which are not contained in the United States Code; and

Transfer related military construction provisions of title 10 to the new chapter.

When the bill is enacted, there will be unified treatment of the permanent law relating to military construction and military family housing.

TERMS USED IN THE REPORT

Appropriate committees of Congress.—The Committees on Armed Services and on Appropriations of the Senate and House of Representatives.

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Facility.—A building, structure, or improvement to real property.

Military installation.—A base, camp, post, station, yard, center, or other activity under the jurisdiction or operational control of the Secretary of a military department.

Military construction.—Any construction, conversion, or extension of any kind for a military installation.

Military construction project.—All military construction work to produce a complete and usable facility.

Secretary concerned.—The Secretary of a military department or the Secretary of Defense for matters concerning the defense agencies.

Study and Hearings Preceding the Legislation

This legislation was developed as a joint project of the staffs of the Subcommittee on Military Installations and Facilities of the House Armed Services Committee and of the Subcommittee on Military Construction of the Senate Armed Services Committee. The two subcommittee staffs have worked closely together from the inception of the project in order to develop a bill which could be presented in identical form to the two subcommittees.

Development of the legislation began in the fall of 1978, when upon completion of the Military Construction Authorization Act for fiscal year 1979 the subcommittee staffs, at the direction of their respective subcommittee chairmen, reexamined the recurring language of the annual military construction authorization Act. Over the years, language had been developed for inclusion in the annual bill which was repeated without change, and generally without adequate reexamination, from year-to-year. The subcommittee staffs concluded that much of this language could be enacted into permanent law and could be restated in a more understandable and usable form. Consequently, the staffs, at the direction of the two subcommittee chairmen, began the development of this legislation.

A draft of this legislation was transmitted to the Department of Defense (DOD) for comment in March of 1979. At that time DOD expressed support for the idea of codification and reform legislation in the military construction area and provided technical comments, but requested that any action be deferred until completion of the fiscal year 1980 military construction authorization bill. In August 1979, the staffs sent a new draft to DOD reflecting further staff work and comments received from DOD on the earlier draft. Based on this draft, DOD undertook an extensive reexamination of the law applicable to military construction and military family housing and prepared a draft codification bill of its own. This draft was submitted to the committees in October 1979. In its draft DOD pointed out certain technical deficiencies in the earlier staff drafts and suggested further policy changes from the current law beyond those proposed in the August 1979 draft. (Several of these changes were subsequently enacted into law in the fiscal years 1981 and 1982 authorization bills.)

In the fall of 1981 the two subcommittee staffs, continuing their joint work on the legislation, prepared a revised text of the codification proposal incorporating suggestions from the DOD draft,

changes in law since the previous staff draft, and further staff analysis. This text was introduced in the House of Representatives on December 16, 1981, as H.R. 5241 by the subcommittee chairman, the Honorable Jack Brinkley of Georgia, and the subcommittee ranking Republican member, the Honorable Paul S. Trible, Jr., of Virginia, and was introduced in the Senate on the same day as S. 1990 by the subcommittee chairman, the Honorable Strom Thurmond of South Carolina. Hearings on the respective bills were held on March 5, 1982, by the House subcommittee and on April 19, 1982, by the Senate subcommittee. Based upon these hearings, information furnished by DOD in response to questions raised at the hearings and informally by the staffs, and an extensive reexamination of current law and DOD administrative practices under current law, the two staffs developed an amendment in the nature of a substitute for common recommendation to the two subcommittees.

The committee would also note that the staffs of the Subcommittees on Military Construction of the Appropriations Committees of the two Houses were consulted extensively during the latter stages of the development of the legislation to get their views on the legislation with particular emphasis on matters relating to the funding of military construction projects and in order to attempt to achieve a common approach to cost variations between the authorizing and appropriating committees.

As a result of this extensive prior coordination, the Armed Services Committee of both Houses reported identical bills. On May 20, 1982, the Senate Armed Services Committee ordered reported this original bill in lieu of S. 1990, as amended. On May 25, 1982, the House Armed Services Committee ordered reported an identical clean bill, H.R. 6451, in the nature of a substitute.

Regulatory Impact

Paragraph 5 of rule XXIX of the Standing Rules of the Senate requires that a report of the regulatory impact of a bill be included in the report on such bill. The Committee finds that in the case of this bill there is no regulatory impact.

Budget Estimate

This bill does not authorize any appropriations and has no apparent impact on the budget of the Department of Defense.

Committee Action on the Bill

On May 20, 1982, the Committee on Armed Services, a quorum being present, voted unanimously to report the bill favorably.

MAJOR PROVISIONS OF THE BILL

The bill is essentially a codification of existing law to make it more readily available for future reference. For the most part, current policy and procedures have simply been incorporated in the new format. In some few instances, changes in policy and procedure have been adopted and these are presented in this part of the report. Detailed discussions follow in the "Sectional Analysis".

Decentralization of Administration of Military Construction and Military Family Housing

As part of the fiscal year 1983 military construction program, the Department of Defense proposed a number of management improvements for the administration of defense facilities and associated construction projects. The outcome expected by the Department from these proposals is a reduction in costly administrative delays and the encouragement of responsible management at lower echelons. The proposal to decentralize the administration of family housing, for example, was based on the belief that decentralization would allow the services greater flexibility, eliminate many unnecessary and redundant reports, and generally place responsibility where it belongs, with the administrator most directly involved in program development and execution. Since the decentralization proposals impact significantly on the codification bill, these proposals were examined thoroughly. Based on this examination, the committee concurs in general with the decentralization philosophy. A summary of the decentralization proposals recommended and incorporated in the codification bill follows:

DECENTRALIZATION OF ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Subchapter/section	Item	Activities decentralized
I–2803	Emergency construction	Determination that deferral of project would be inconsistent with national security.
I–2805	Unspecified minor construction	Approval of unspecified minor construction project. Cost variation reporting for unspecified minor construction projects. Congressional notification whenever minor construction project cost would exceed 50 percent of ceiling amount.
I–2807	Architectural and engineering services and construction design.	Congressional notification whenever design fee would exceed $300,000.
II	Military family housing	All approvals and congressional notifications except for designation of special command positions.
III–2853	Authorized cost variations	Congressional notification whenever cost variation exceeds a threshold.
III–2854	Restoration or replacement of facilities damaged or destroyed.	Approval and congressional notification.

Establishment of Certain Amounts To Be Specified by Law Each Year

The provisions to be codified in chapter 169 contained 17 different dollar amounts that established either military department approval levels, or ceilings for which notifications or reports are to be submitted to the appropriate committees of Congress. Each of these dollar amounts is impacted by changes in the economy, which means that the authority provided at the time of enactment would be eroded over time. However, including dollar amounts that require periodic change thwarts the purpose for codifying recurring provisions that do not change from year to year. Therefore, the committee sought a procedure to minimize changes in permanent law.

One method examined was to relate the various dollar amounts by percentage to the minor construction ceiling. This was feasible and practical for the six minor construction amounts, cost variation amount, and the amount for notifying Congress of plans to start design of a construction project with an estimated construction cost greater than $5 million. Since the nine other items did not have a good construction cost correlation with the minor construction ceiling, other solutions were sought for keeping these amounts current. For barracks and officer's quarters projects, which are authorized and justified separately each year, it was determined that no cost limitation was needed in permanent law. Section 2577 of chapter 153 provides authority to use the proceeds from the disposal of recyclable material up to $50,000 per year for accomplishing environmental and energy conservation projects. A modification is recommended for this provision, which would eliminate the need to codify a dollar amount in this provision. Examining the family housing provisions, it was found that four to five amounts needed changes periodically. To keep these and other amounts discussed earlier current, the committee recommends including in the annual military construction authorization act a special section to establish dollar amounts for seven items. The section would be titled: "Establishment of Certain Amounts Required to be Specified by Law." Although these amounts would be included in each military construction authorization Act, changes would only be made when circumstances dictate a need for revisions. The Department of Defense should not expect or request changes annually.

A summary of the amounts proposed for inclusion in annual military construction acts and the recommended amounts for fiscal year 1983 follow:

ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Subchapter/section	Description of amount	Authorized amount
I-2805(a)	Unspecified minor construction project ceiling	$1,000,000
I-2807(a)	Congressional notification amount for starting construction design on major projects	$300,000
II-2825(b)	Cost limitation for improvements to family housing	$30,000
II-2828(b)(2)	Rental ceiling—United States	[1] $6,000
II-2828(e)(1)	Rental ceiling—foreign	[1] $16,800
II-2828(e)(2)	Maximum number of foreign leases	29,000
II-2828(f)	Notification ceiling—leases in a foreign country	$250,000

[1] Per year.

Annual Report Requirement

Currently the Committee receives numerous reports which are required to be submitted by various provisions in law and report requirements that have evolved over the years. The Committee considered that this codification bill presents a unique opportunity to completely revise reporting requirements.

Before drafting annual report requirements, the reports currently being received were re-examined to determine the utility of the information and data received. In some instances, an abundance of data was received, but the data provided very little utility to the

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Committee in reaching conclusions on progress and accomplishments in managing military construction and military family housing or for deciding on corrective courses of action. Therefore, some changes have been incorporated in the annual reporting requirements to obtain more useful information for the appropriate committees of Congress. To the degree possible, the committee attempted to match its data requirements with those used by the military departments and defense agencies in their day to day management of military construction, military family housing and military construction for reserve forces. The principle followed was that of defining in the bill the oversight desired by the appropriate committees of Congress and then leaving to the military departments and defense agencies the design of reports to meet these oversight requirements. The committee questions whether the military departments are taking full advantage of advanced computer technology in managing the execution of construction for the thousands of military construction projects authorized by Congress in recent years. With the growing size of construction programs, the committee would like to have an increased capability for program surveillance and analysis to assure that the projects authorized are being accomplished in an expeditious and cost effective manner.

The committee is aware that each of the military departments has instituted various automated programs for monitoring progress of their programs. They are commended for these initial systems. The committee's concern is whether these systems provide the level of management information and decisionmaking capability that is available and used by major construction firms with worldwide operations. A similar capability should be available for the military construction program. With the placing of annual report requirements into permanent law, the committee expects the Department of Defense to develop a construction execution management system that would build on the departmental systems. The system should be able to integrate for management decision and reporting the military department programs and furnish to the concerned committees of Congress a periodic exception report on the progress of military construction execution. A summary of the annual reporting requirements of the new chapter follows:

Contingency construction

Information supplied should enable the appropriate committees of Congress to monitor (1) construction progress and trends in obligating the amounts authorized and appropriated under this section each year, (2) unobligated balances at the end of a fiscal year and (3) the amounts reserved for identified project requirements that are pending executive department approval or congressional notification.

Unspecified minor construction

Information supplied should enable the appropriate committees of Congress to monitor the relationships between budget requests and obligations for unspecified minor construction projects funded from military construction appropriations and unspecified minor construction projects funded from operations and maintenance appropriations. The maintenance and repair backlog at the end of the

prior fiscal year will be used to evaluate the ratio of expenditures between minor construction and maintenance and repair. Data for the two fiscal years prior to the budget year should be supplied to evaluate trends.

North Atlantic Treaty Organization Infrastructure

Information supplied should enable the appropriate committees of Congress to monitor trends in obligations incurred by the United States by quarter, the United States and other nations' shares of the construction cost, the benefits to be derived by the completion of construction started during the fiscal year, and the status of recoupments under the program.

Architectural and engineering services and construction design

Information should enable the appropriate committees of Congress to monitor the distribution of contracting for design between the community of architectural and engineering firms, identify at an appropriate level the number of firms obtaining a significant number and dollar value of contracts, and identify the five firms that received the largest dollar amounts for design contracts during the fiscal year and the amounts awarded to such firms. Information is also needed on the architectural and engineering services and construction design fees paid as a percent of current working estimate of the construction contract award amount for the projects for which the design was performed. This data is needed for various ranges of construction contract amounts. Similar data and analysis should be supplied for design fees only.

Supervision of military construction

Information supplied should enable the appropriate committees of Congress to monitor trends in construction supervision, inspection and overhead costs in terms of the dollar amount of construction put in place during the course of a fiscal year.

Authorized cost variations

Information supplied should enable the appropriate committees of Congress to monitor trends in the quality of budget estimates prepared by the military departments and defense agencies. Summary data should be supplied with an accompanying analysis of the competition on the projects with cost variations compared to other projects awarded during the fiscal year and an analysis of the quality of plans, specifications and estimates for the projects as reflected in authorized cost variations.

Limitation on the use of funds for expediting a construction project

Information supplied should enable the appropriate committees of Congress to evaluate the cases where construction was expedited to protect the national interest.

In addition to the reporting requirements above for specific sections of the new chapter, other information is needed. This information should permit the appropriate committees of Congress to monitor trends in:

Number of bids received,

Cost increases and scope reductions,

Design performance goals and progress,
Construction performance goals and progress,
Project cancellations,
Projects delayed,
Projects unawarded,
Contracts awarded on other than a competitive basis with separate breakouts for overseas contracts, and small business set-aside contracts, and
Post award contract changes, number and dollar amounts, percent of number of active contracts and military construction work put in place.

Unspecified Minor Construction

When section 2674 of title 10 was enacted in 1958, minor construction was for the accomplishment of urgent requirements that had not been included as a specified project in an annual authorization Act. These projects became known as unspecified minor construction projects.

In the 1978 Military Construction Authorization Act, the minor construction authority was modified. The objectives set forth at that time were: (1) to provide the Department of Defense and the military departments increased flexibility and (2) to reduce by approximately half the number of projects the appropriate committees of Congress examine in detail each year.

The first objective was concerned with the unspecified (out-of-budget cycle) requirements that may be budgeted for only in a lump sum. The second objective was concerned with what is known as "specified locations minor construction"; that is, the known and programmable requirements below the minor construction project ceiling amount of $1,000,000. Since the 1978 amendments, the amount authorized for minor construction each year has been a single amount which includes an amount for known projects at specified locations and an amount for the unspecified requirements. An advantage of the change made in fiscal year 1978 was that the single amount authorized provided flexibility to the military departments. It permitted them to shift savings, subject to applicable intra-appropriations transfer procedures, should unspecified requirements fail to develop to the degree forecast or bid costs of specified location projects exceed the program estimates.

Since the 1978 changes were made, some disadvantages have surfaced. The language of section 2674 of title 10 is basically the language that had existed for the unspecified projects, but with the removal of the urgent determination. One disadvantage is that authorizing appropriations for specified location minor construction projects separately from the total amount for an installation obscures the total authority being provided for an installation. It would be advantageous to include the known minor construction, the specified location projects, under the amount for an installation. This could be achieved by separating the specified location minor construction projects from the unspecified minor construction projects. Another disadvantage is that a lack of distinguishing language for specified location and unspecified projects has compli-

cated the administration and execution of those projects at specified locations.

The second objective permitted the committee to focus attention on the more important projects of the authorization request. The specified location minor construction projects constitute 40 percent of the projects in a program, but they represent only 5 percent of the dollar amount of the projects in an authorization bill. The specified location minor construction projects are separately identified in the annual justification books, but without the same level of detail as projects with estimated amounts over $1 million. By focusing on the more important and large dollar amount projects, the committee is confident that: (1) the vitally needed projects are authorized and (2) decisions are well founded, which would defer or deny a project. In summary, the committee recommends that a single amount be authorized to be appropriated for unspecified minor construction projects and that authority for specified location minor construction projects be included within the dollar amount total of the related installation.

Authorized Cost Variation

The committee has always recognized that the complexities of the construction marketplace make it impossible for the military departments to estimate precisely what a construction project is going to cost. Consequently, the military departments have always had the legal flexibility to allow some variation in cost from the estimates presented to Congress in executing their construction program.

As a general proposition, the committee would expect that the sum of all cost variations would approach zero (i.e., there should be as many project cost underruns as there are cost overruns). The committee has therefore continued the ceiling on the total construction authorized and expects the military departments to carefully manage their construction programs to avoid exceeding the total construction authorized for each title.

All military construction projects from minor construction projects to major construction projects, military family housing projects, and land acquisition projects may be subject to cost variation. Some principles that guided the development of the cost variation provisions follow:

1. Restrictive cost variation provisions with time consuming notification procedures may increase costs of military construction projects. This occurs because of the need to extend the time between bid opening and bid acceptance, which may result in increased costs, especially if readvertising is necessary.

2. The quality of budget estimates for military construction projects which are presented to Congress is a function of the amount of money expended in their preparation.

3. The exigencies of the construction market place mitigate against spending excessive sums to refine project estimates more than is now the general practice.

4. Cost variation procedures should be designed to provide the oversight needed for the quality of estimate expected.

5. Cost variation provisions should be similar for minor construction, family housing, and land acquisition projects.

6. Cost variation provisions utilized by the Armed Services and the Appropriations Committees should be similar.

7. Since the reduction of project scope is a way to control project cost, a cost variation provision must provide oversight also of scope reductions.

8. After initial contracting for a project, the Congress needs information of cost variations that exceed the limits established; even though, the contract changes are for unknown or unspecified conditions or claims that are beyond the control of the contracting officer.

When the appropriated amount for a project must be increased in excess of 25 percent or 200 percent of the minor construction project ceiling, whichever is lesser, notification of the appropriate committees of Congress would be required. This provision establishes, under the $1,000,000 ceiling proposed for the minor construction ceiling, an $8 million project as the upper limit for the 25 percent to be operative. Above this project amount, the 200 percent ($2,000,000) would control. This provides the oversight needed for larger projects and would align the cost variation procedures of the Armed Services and Appropriations Committees. This requirement would apply also to minor construction projects when the amount for contract award is in excess of 125 percent of the approved project amount or above the minor construction project ceiling. Other guidelines and procedures for authorized cost variations follow:

1. For military construction and military family housing projects, cost variation notification shall be based upon a current working estimate based upon bids, except for the post contract award notifications.

2. For land acquisition projects, cost variation notification shall be on the basis of negotiated prices or court judgments.

3. Twenty one days after the appropriate committees receive the cost variation notification, a contract may be awarded for a minor construction, military construction, military family housing project or, a land acquisition project, unless objections are raised.

4. Should any one of the four committees notify the military department or defense agency concerned within the 21 day period of its intent to hold a hearing on the cost variation, then further action would have to be postponed until completion of the hearing and until approval has been given by that committee.

5. For cost variation notifications required for contract changes for unknown or unspecified conditions or settlement of a claim, a report should be provided with the reasons for the change to the appropriate committees within 21 days of the date of the contract change.

In summary, the changes to the cost variation provisions would establish a fixed notification ceiling for projects with costs in excess of $8 million, require post award notifications and standardize cost variation provisions for minor construction projects, regular military construction projects, military family housing projects and land acquisition projects.

New Annual Authorization of Appropriation

Appropriations have been provided annually for the construction of defense access roads using the authority of section 210 of title 23. Appropriations have been provided annually for achitectural and engineering services and design of military construction projects using the authority of section 723 of title 31. The use of these authorities has eliminated from the budget request for military construction authorization some information and data needed by the Armed Services Committees for exercising appropriate oversight of the military construction program. Therefore, authority for lump sum appropriations for design of military construction projects and construction of defense access roads will be included in future military construction authorization Acts. Thereafter, the annual military construction authorization Act would authorize appropriations to be added to the defense access roads and construction design accounts in a given fiscal year.

A new section titled "Architectural and engineering services and construction design" would be included in the new chapter and section 723 of title 31 would be repealed. The permanent authority for defense access roads construction, section 210 of title 23, would not be repealed.

Departmental Data

The process of developing the final bill has been an iterative process. During this process, the Department of Defense has been given several opportunities to comment on the latest draft of the bill. Three detailed responses were provided by the Department of Defense which were considered and incorporated in the final version of the bill where considered appropriate.

The Department of Defense, by letter of April 21, 1982, concurred in principle with the objectives of codifying portions of the annual military construction authorization bill and advised that the Office of Management and Budget had no objection to the presentation of a report on codification for the consideration of the Congress. The text of the letter follows:

General Counsel of the Department of Defense,
Washington, D.C., April 21, 1982.

Hon. John Tower,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Reference is made to your request for the views of the Department of Defense on S. 1990, 97th Congress, a bill "To amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing."

We concur in principle with the objective of permanent codification for those authorities, and welcome the opportunity to work with your staff in preparation of the proposed legislation. As you are aware, we previously worked with your staff in an earlier draft of such legislation in October 1979.

The proposed legislation enclosed with your letter is presently undergoing careful review by appropriate staff elements of this De-

partment. When this review is concluded, we expect to be able to provide you with a comprehensive and detailed summary of our conclusions and recommendations. We expect this effort to be completed in the near future, so as to permit a thorough discussion of the proposal during your Subcommittee's review of the FY 1983 Military Construction Authorization request.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Congress.

Sincerely,

WILLIAM H. TAFT, IV.

SECTIONAL ANALYSIS

SHORT TITLE

Section 1 of the bill provides that the Act may be cited as "The Military Construction Codification Act".

NEW CHAPTER

Section 2 of the bill adds a new chapter 169, "Military Constuction and Military Family Housing", to title 10, United States Code. That chapter would have three subchapters. An explanation of each section of the proposed chapter follows:

SUBCHAPTER I—MILITARY CONSTRUCTION

Section 2801. Scope of chapter; definitions.—This is a compilation section that sets forth in one place the scope of military construction, and defines a military construction project and other terms used in the chapter. It is derived from accepted definitions, programming practices and construction execution procedures that have evolved from managing annual military construction authorization acts from project programming to construction completion.

Subsection (a) defines military construction.

Subsection (b) defines a military construction project. The authority for a military construction project includes the authority to make a capital improvement contribution to a public or private utility or regional service facility or system. A capital improvement contribution shall be identified in a project justification document with supporting data to show that the alternative of a capital improvement contribution would have a lower life cycle cost than building or improving a military department facility. It requires that a military construction project provide a complete and usable facility, or a complete and usable improvement to an existing facility, except where a portion of a complete and usable facility is specifically authorized by law. In general, an exception to the complete and usable criteria would be used only for projects with costs in excess of $50 million, where a cost effective construction sequence would require several years and cost effective contracting would permit obligations in successive fiscal years. In every case where only a portion of a facility would be completed, the total cost of the facility shall be shown on the project justification document of the initial request. In general, authorization for the entire proj-

ect cost will be sought in the first fiscal year with appropriations requested to match the cost effective construction and contracting sequence. Exceptions to full authorization may be made where construction funding would extend beyond four fiscal years.

Subsection (c) defines "facility", "military installation", "Secretary concerned" and "appropriate committees of Congress". For the purpose of the new chapter, the term "facility" is understood to include the plural, as provided in the rules of construction set forth in section 1 of title 1. This rule of construction is not intended as encouragement for packaging several independent functional facility requirements into one large military construction project. Section 101 of title 10 defines "Secretary concerned" as the Secretaries of the military departments. Subsection (c) extends this definition for purposes of this chapter to include the Secretary of Defense for matters concerning the defense agencies.

The committee has not included the phrase "or his designee" with respect to the functions of the Secretary of a military department or the Secretary of Defense under the new chapter. The committee has done this in light of established practice, the prevailing usage within title 10, and explicit statutory authority for the Secretaries to delegate their functions. It is the committee's understanding that prevailing principles of administrative law allow the head of an agency to delegate functions except to the extent specifically prohibited by law. (See 10 U.S.C. 133(d), 3012(c), and 8012(c).) It is certainly the committee's expectation that many of the functions of the Secretary of Defense under the new chapter with respect to the defense agencies would be delegated to the Directors of the various agencies.

Subsection (d) excludes Coast Guard or civil works projects of the Army Corps of Engineers from the coverage of the chapter.

Section 2802. Military construction projects.—Subsection (a) is new language that restates in this chapter the requirement of section 138 of title 10 that authority of law is needed to carry out military construction projects.

Subsection (b). The source of the provisions of this section are sections 101 and 701 (second sentence) of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99. It specifies what construction is included in a military construction project. In amplification of this provision the term "incident to the project" means those items that are normally built into a building, structure or facility. An example, which will clarify the intent of the phrase "supporting facilities incident to the project" follows:

The lowest life-cycle cost alternatives for a barracks project is the renovation of permanent barracks buildings to new construction habitability standards rather than constructing new barracks. However, the renovation will remove billeting spaces during the period of construction. A temporary building is needed during the renovation period to house the personnel. This building would be appropriately classified as a supporting facility incident to the construction and such building could be either leased or constructed. The cost of the temporary facility should be included on the project justification document and in the life-cycle cost analysis.

Section 2803. Emergency construction.—The sources of the provisions of this section are sections 102, 202 and 302 of annual mili-

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tary construction authorization Acts. The provisions of the source sections would be incorporated in the new chapter without policy changes, but with some procedural revisions.

Subsection (a) sets forth the criteria for the use of the authority of this section. The five criteria that were used for qualifying a project for the use of emergency construction authority have been replaced with a determination by the Secretary of the military department concerned that: (1) the project is vital to the national security and (2) that the requirement for the project is so urgent that deferring authorization for its construction to the next military construction authorization Act would be inconsistent with national security. This authority would not be used for projects denied authorization in a prior military construction authorization Act. No authorization of appropriations would be provided in an annual military construction authorization Act for the use of the authority of this section. Therefore, the use of this authority is dependent upon the availability of savings of appropriations from other military construction projects or through funding obtained by deferring or cancelling other military construction projects.

Subsection (b) sets forth the reporting requirements for the use of the authority of this section. Justifying the use of this authority and identifying the source of funds for an emergency construction project are new reporting requirements.

Subsection (c)(1) limits the use of this authority by the Secretary of a military department to the obligation of $30 million in any fiscal year. Accounting procedures should be established to account for secondary contract awards on projects for which the primary contract was awarded in a prior fiscal year. Since the use of this authority would be rare, the establishment of accounting procedures to track contract obligations for emergency construction projects should not be an onerous task.

Subsection (c)(2) limits the use of this authority to the total amount of funds appropriated for military construction that have not been obligated.

Section 2804. Contingency construction.—The source of this section is section 402 of annual military construction authorization Acts. The provisions of the source section would be incorporated in the new chapter without policy changes, but with some procedural revisions.

Subsection (a) sets forth the criteria for the use of the authority of this section. It requires a determination by the Secretary of Defense that deferral of the project for inclusion in the next military construction authorization Act would be inconsistent with national security or the national interest. This authority would not be used for projects denied authorization or appropriations in prior military construction Acts. It is intended to be used for extraordinary projects that develop unexpectedly and for which the national interest or security could be jeopardized by a failure to start construction of the project at an early date. Authorization of appropriations would be provided annually or as needed for the use of the authority of this section.

Subsection (b) sets forth the reporting requirements for the use of the authority of this section. Justifying the use of this authority for the project in question is a new reporting requirement. Each

notification of the intended use of this authority would include a report on the remaining authorizations and appropriations available for contingency construction.

Section 2805. Unspecified minor construction.—The source of this section is section 2674 of title 10. See the remarks on this section under "Major Provisions of the Bill".

Subsection (a) defines a minor military construction project by extending the definition of a military construction project as found in section 2801. With the basic definition and this extension a minor military construction project is: (1) a single undertaking at a military installation that includes all construction necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility and (2) that has an approved cost equal to or less than the amount specified by law as the maximum amount for a minor military construction project.

A minor military construction project may: (1) precede a military construction project for a new mission requirement when such minor construction would provide a complete and usable facility to meet a specific need during a specific timeframe and (2) follow a military construction project when new mission requirements develop after the military construction project has been completed. However, both of these exceptions should be rare. For both cases, the appropriate committees of Congress should be notified of such undertakings for any minor military construction project that exceeds 20 percent of the maximum amount for a minor military construction project. The following construction activities should not be accomplished as a minor military construction project:

(1) Splitting a project into increments solely to reduce the cost thereof below an approval threshold or the minor construction ceiling amount;

(2) Undertaking incrementation that results in a higher cost of construction because of a sacrifice of economy of scale;

(3) Concurrent work on an active military construction project to reduce the cost of the military construction project below cost variation notification levels.

The committee expects the Secretary of Defense to publish regulations to prevent abuses in the use of minor military construction authority and to require the Secretaries of the military departments to conduct the inspections needed to assure compliance with such regulations.

Subsection (b)(1) establishes the Secretarial approval amount and congressional notification amount as 50 percent of the maximum amount for a minor military construction project.

Subsection (b)(2) sets forth the congressional notification procedures.

Subsection (c) authorizes the use of operations and maintenance funds for a minor military construction project costing not more than 20 percent of the maximum amount for a minor construction project.

The committee examined the feasibility of authorizing and appropriating all minor construction through military construction Acts. This would have provided the advantage of having the appropriations for minor construction under the 20 percent level not expire annually. Also, it would have provided to military construc-

tion subcommittees of Armed Services and Appropriations Committees better oversight of all military construction. Although there were advantages to authorizing and funding all minor construction from military construction appropriations, the military departments testified that the loss of flexibility at the installation commanders' level is a disadvantage that outweighs all of the advantages. Since the committee's objective for minor construction has been to increase a military department's flexibility in managing minor construction, the use of operations and maintenance funds for minor construction was retained. However, since the use of operations and maintenance funds for minor construction normally equals or exceeds the use of military construction funds for minor construction, the committee believes that annual reporting procedures to provide better oversight on operation and maintenance expenditures for minor construction is necessary. The committee is most concerned that operations and maintenance funds used for minor construction may be at the expense of needed repair and maintenance of facilities.

Subsection (d) excludes the use of this authority for construction of new military family housing units.

Section 2806. Contributions for North Atlantic Treaty Organization infrastructure.—The sources of the provisions of this section are sections 501 and 703 (d) and (e) of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99, and section 404(a)(2) of the Fiscal Year 1981 Military Construction Authorization Act, Public Law 96-418. The provisions of the source sections would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) permits the Secretary of Defense, within amounts authorized, to make contributions for the United States share of the cost of acquiring and constructing facilities and installations for the collective defense of the North Atlantic Treaty area.

Subsection (b) prohibits obligations for the North Atlantic Treaty Organization (NATO) infrastructure program unless the funds for such obligations have been authorized by law.

Subsection (c) provides authority for contributing at a level higher than the amount authorized but not in excess of 125 percent of the amount appropriated. A contribution at a higher level is subject to notifying the appropriate committees of Congress when the increase exceeds 200 percent of the maximum amount for a minor construction project.

Section 2807. Architectural and engineering services and construction design.—The sources of this section are sections 723 and 723a of title 31.

The provisions of the source sections would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) authorizes the Secretary concerned, within the amounts appropriated, to carry out architectural and engineering services and construction design for any military construction project or land acquisition project. It permits the use also of such appropriations for construction management of projects that are funded by foreign governments for which funds would not be available for the normal United States oversight functions of design

review and supervision and inspection of construction including associated overhead costs. The term "advance planning" from the source law has been eliminated as it is not intended that functions related to the planning process be performed under the authority of this section. Advance planning functions are: (1) developing the requirement for a military construction project, (2) developing a master plan for an installation, (3) alternative site studies, (4) developing and validating military construction project documentation prior to commencing project design, (5) preparing engineering analyses and studies to develop technical design parameters, and (6) preparing environmental impact assessments and statements. Advance planning should be funded from the operations and maintenance account.

The objectives of this section are to permit development of preliminary estimates of project cost based on preliminary design, and to achieve execution of the military construction program early in the fiscal year. Architectural and engineering services and construction design include all engineering services and design required for proposed military construction project-site investigations, surveys and mapping, sketches, preparation of cost estimates for construction and land acquisition projects, plans, specifications and construction contract documents.

Other functions that may be performed under the authority of this section are: (1) the development and updating of design criteria and manuals, (2) preparing standard designs and definitive drawings used on military construction projects, (3) management of military construction program design and contract administrative services for design, (4) project cost certifications, (5) the administration of architectural and engineering services contracts for the design of military construction and land acquisition projects, and (6) pre-construction contract award activities including printing and reproduction of bid documents, preparing pre-bid government estimate and liaison with prospective bidder and construction personnel.

Overhead costs for the above functions, such as travel, supplies, material, and equipment, should be charged to the appropriations authorized under the authority of this section.

Subsection (b) establishes procedures for notifying the concerned committees of Congress when design will be undertaken on projects with a significant cost. When this bill is enacted, it is proposed that the maximum amount specified by law for the purposes of this section be $300,000, which would equate to a military construction project of about $5 million, using the normal design-to-construction cost ratio of six percent. Notification would be required also for projects designed by government personnel. When a large project is undertaken or when several projects for the same functional purpose are undertaken, the concerned committees of Congress shall be notified prior to the start of design for any portion of the undertaking even though (1) the project design may be subdivided into several architect and engineer contracts or a combination of architect and engineering contracts and design performed in-house by government personnel and (2) the design cost for such portion may be less than the reporting threshold specified by law. During the notification waiting period, public announcement of the plan to initiate design on a particular military construction project may be

made and administrative actions leading to the award of the architect and engineer contract may be started.

Subsection (c) provides authority to exceed the amount authorized to be appropriated for architectural and engineering services and construction design subject to notifying and justifying the need for such increase to the concerned committees of Congress.

Section 2808. Construction authority in the event of a declaration of war or national emergency.—The source of this section is section 903 of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99. The provisions of the source section would be incorporated in the new chapter without change.

Subsection (a) provides authority to undertake the military construction projects necessary to support the use of armed forces in the event of a declaration of war or national emergency. The only restriction in this subsection is that the total cost of all projects undertaken must be within the unobligated amount of funds previously appropriated for military construction and military family housing.

Subsection (b) sets forth requirements for notifying the concerned committees of Congress. It does not include a requirement for a waiting period.

Subsection (c) establishes conditions for terminating the use of the authority of this section.

Subchapter II—Military Family Housing

Section 2821. Requirement for authorization of appropriations for construction and acquisition of military family housing.—The source of this section is section 507 of Public Law 87-554 (42 U.S.C. 1594a-2). The provisions of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) requires the authorization of appropriations for all military family housing functions.

Subsection (b) provides standing authority for appropriation of additional sums needed for increases in salary and other employee benefits authorized by law.

Subsection (c) sets forth the scope of items included in the construction of military family housing units. Supporting facilities would include community support, maintenance and administrative buildings. Each of the supporting facilities shall be described in the justification document for the family housing project.

Section 2822. Requirement for authorization of number of family housing units.—The source of the section is section 406(a) of Public Law 85-241 (42 U.S.C. 1594i). The provisions of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) requires the Secretary concerned to have the number of units specifically authorized before constructing or acquiring family housing units.

Subsection (b) permits exceptions for housing units acquired under the Housing Amendments of 1955 and under the Homeowners Assistance Program and leased housing units.

Section 2823. Determination of suitable private housing for acquisition in lieu of construction of new family housing.—The source of this section is section 601(a) of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99. The provisions of the source section would be incorporated in the new chapter without policy change, but with some technical and clerical revisions.

Subsection (a) requires the Secretary concerned to consult *in writing* with the Secretary of Housing and Urban Development (HUD) to determine the availability of suitable existing housing at the location of the planned construction of family housing units. It requires initiation of the consultation before entering into a contract for the family housing units, but this requirement is set aside if a response is not received *in writing* within 21 days from HUD.

Subsection (b) establishes procedures for notifying Congress when there is disagreement between the Secretary concerned and HUD over the availability of suitable existing housing. It requires delaying the contract award for 21 days from the date the concerned committees of Congress received the notification.

Subsection (c) provides guidance when there is agreement that suitable private housing is available. No construction should be undertaken.

Subsection (d) requires the Secretary of Defense to prescribe regulations to define what constitutes suitable housing. The regulations should establish standards with respect to size, quality of construction, maintainability, location, energy conservation and utility costs.

Section 2824. Authorization for acquisition of existing family housing in lieu of construction.—The source of this section is section 501(b) of annual Military Construction Authorization Acts. The provisions of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) permits the Secretary concerned to acquire existing family housing units in lieu of constructing authorized family housing units and in foreign countries to acquire less than sole interest.

Subsection (b) permits the acquisition of land under the authority to construct military family housing units.

Subsection (c) sets limits on net floor area of units acquired under the authority of this section.

Subsection (d) prohibits the use of eminent domain to acquire family housing units.

Section 2825. Improvements to family housing units.—The sources of this section are section 602(a) of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99 and section 610(a) of the Fiscal Year 1968 Military Construction Authorization Act, Public Law 90-110. The provisions of the source sections would be incorporated in the new chapter without policy change, but with some technical and clerical revisions.

Subsection (a) sets forth the work that may be accomplished under the authority to make improvements to family housing units and ancillary supporting facilities. Maintenance, repair, and rehabilitation accomplished concurrently with an improvement is considered part of an improvement.

Subsection (b) sets limits on improvement of family housing units to the amount specified by law with adjustment for the area construction cost index. It requires including within the cost of improvement: the costs of repairs, of furnishing utility services, and of site preparation and improvements.

Subsection (c) excepts from the authority of this section, the restoration or replacement of family housing units that have been damaged or destroyed.

Section 2826. Limitations on space by pay grade.—The source of this section is section 2684 of title 10. The provisions of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) sets forth the space limitations in terms of net square feet of floor area for the applicable numbers of bedrooms by pay grade. No change has been made to the space limitations table of section 2684 of title 10.

Subsection (b) permits increasing by 10 percent the net floor area of housing units of officers holding special command positions, the commanding officer of a military installation, and the senior noncommissioned officer (NCO) at a military installation if that NCO has protocol responsibilities.

Subsection (c) permits increasing the net floor area by 5 percent to permit (1) award of a turnkey construction contract, or (2) purchase, lease or conversion of housing units. It limits the increase under both subsections (b) and (c) to a maximum of 10 percent.

Subsection (d) authorizes waiving the limits of the table of subsection (a) for units leased in foreign countries when suitable units cannot be obtained with net floor areas within the maximum area allowed. It also excepts from the limits of subsection (a) units in foreign countries constructed or acquired by the Secretary of State for occupancy by members of the armed forces.

Subsection (e) extends the net floor areas prescribed by this section to family housing units provided to civilian personnel based upon comparability of civilian pay scale with military pay grades.

Subsection (f) defines net floor area.

Section 2827. Relocation of military family housing units.—The source of this section is section 508 of the Fiscal Year 1971 Military Construction Authorization Act, Public Law 91-511. The provisions of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) permits the Secretary concerned to relocate *existing* family housing units from an installation with an excess of units to an installation with a shortage of units.

Subsection (b) sets forth notification procedures.

Section 2828. Leasing of military family housing.—The sources of this section are sections 2675 and 2686 of title 10. The provisions of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) grants authority for leasing family housing units near a military installation in the United States to military and civilian personnel stationed at such installation. It sets forth five qualifying conditions for leasing.

Subsection (b) sets a limit on the number of units that may be leased at one time, a maximum annual lease amount per unit, and grants authority for 5 percent of the units to exceed the maximum amount by up to 120 percent. The maximum lease amount would be changed from a monthly amount to an annual amount to avoid artifical restrictions because of high utilities costs in some months.

Subsection (c) permits leasing units in foreign countries for assignment as family housing, subject to satisfying qualifying conditions.

Subsection (d) sets a limit on the period of the lease and permits payments through the use of annual appropriations for military family housing operations and maintenance.

Subsection (e) sets a maximum annual lease amount for foreign family housing units, but with authority to waive the maximum for a designated number of units. When the bill is enacted, the committee recommends that no more than 200 units may have annual lease amounts in excess of the maximum lease amount.

The committee is concerned with the high cost of some of these leases and expects the Department of Defense to undertake an aggressive program to reduce these high cost leases by approximately 20 percent per year. The subsection sets a limit on the maximum number of units that may be leased in foreign countries.

Section 2829. Multi-year contracts for supplies and services.—The source of this section is section 512 of the Fiscal Year 1970 Military Construction Authorization Act, Public Law 91-142. It permits 5-year contracts for supplies and services for military family housing and permits paying the costs for such contracts out of annual appropriations for military family housing operations and maintenance. The provisions of the source section would be incorporated in the new chapter without policy change.

Section 2830. Occupancy of substandard family housing units.—The source of this section is section 508 of the Fiscal Year 1973 Military Construction Authorization Act, Public Law 92-545 (42 U.S.C. 1594j-1). The provision of the source section would be incorporated in the new chapter with some technical and clerical revisions and with a minor policy change.

Subsection (a) permits military personnel to occupy substandard family housing units without loss of the full amount of the basic allowance for quarters (BAQ). A fair market rental up to 75 percent of the BAQ would be charged.

Current practice is to recover all operating costs up to 100 percent of BAQ. The committee feels that charging full BAQ for substandard housing is inequitable. The committee would expect substandard housing to be removed from the inventory if upgrading to adequate housing standards is not economically justified and cannot be accomplished in a reasonable time.

Subsection (b) requires the Secretary of Defense to establish regulations for the leasing of substandard rental housing units to members of any of the uniformed services.

Subsection (c) defines "uniformed services" for the purposes of this section.

Section 2831. Military family housing management account.—The sources of this section are section 501 of the Fiscal Year 1962 Military Construction Authorization Act, Public Law 87-554 (42 U.S.C.

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1594a-1). The provision of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) describes an account on the books of the Treasury for the management and administration of funds for military family housing programs.

Subsection (b) requires administration of the account as a single account and sets forth the appropriations and proceeds to be transferred into the account.

Subsection (c) states that the amounts in the account are available until spent.

Subsection (d) permits the Secretary concerned to make obligations against the account for defraying costs set forth in subsection (b).

Section 2832. Homeowners assistance program.—The section is a cross-reference provision and refers to the authority of the Secretary of Defense under the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374). It is not intended to be new authority.

Subchapter III—Administration of Military Construction and Military Family Housing

Section 2851. Supervision of military construction projects.—The sources of this section are the first sentence of section 704 of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99 and section 2682 of title 10. The provisions of the source section would be incorporated in the new chapter without change.

Subsection (a) designates the Army and the Navy as construction agents and where appropriate such other department or agency as the Secretary of Defense approves. The committee expects that designations of construction agents other than the Army and Navy would be rare.

Subsection (b) permits the Secretary of Defense to designate the construction agent for military construction projects of defense agencies.

Section 2852. Military construction projects: waiver of certain restrictions.—The source of this section is section 701 of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99. The provisions of the source section would be incorporated in the new chapter without change.

Subsection (a) permits making expenditures and contributions (progress payments) during the course of contracting before acceptance of the completed facility of a military construction project.

Subsection (b) permits starting construction for a military construction project, on land not owned by the United States, without the Department of Justice advance approval of land title.

Section 2853. Cost variation.—The source of this section is section 703 of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99. See the remarks on cost variation under "Major Provisions of the Bill". This analysis augments that discussion.

Subsection (a) permits increasing the amount appropriated for a military construction project to not more than 25 percent of the ap-

propriated amount for the project or not more than 200 percent of the maximum amount for a minor construction project, whichever is less. Two conditions must be met and these are (1) that the increase is for an unusual variation in cost, and (2) that such increase could not have been reasonably anticipated at the time Congress approved the project.

The phrase "other than a project for which the approved amount is less than the amount specified by law as the maximum amount for a minor military construction project" excludes minor construction projects from the limits of this subsection. Cost variation shall not be used to increase the scope of a minor construction or any other military construction project.

Subsection (a)(2) establishes restrictions on placing a military construction project under contract when the scope of the project is reduced by more than 25 percent or when the current working estimate for the project, based on bids received, exceeds increased amount for cost variation; until the notification requirements of subsection (d) are satisfied.

Subsection (b) extends cost variation authority to minor construction projects. It permits, subject to notification procedures of subsection (d), a contract to be awarded for a minor construction project with a current working estimate (based on bids received) greater than the maximum amount for a minor construction project and with an increase in cost greater than 25 percent of the amount approved or appropriated for the project.

Subsection (c) extends cost variation authority to family housing projects.

Subsection (d)(1) sets forth notification procedures which require the Secretary concerned to approve the reduction in scope or increase in cost and to provide written notification of the facts and reasons for the reduced scope or increased cost. It permits contracting to proceed unless the concerned committees of Congress object to the reduced scope or increased cost.

Subsection (d)(2) sets a 21-day waiting period for the concerned committees of Congress to respond to the notification; after such period each committee shall be considered to have approved the reduced scope of work or increased cost. If during the waiting period any committee indicates an intent to hold a hearing on the cost variation, award of the contract shall be deferred until the completion of such hearing and until that committee approves the reduced scope of work or increased cost.

Subsection (e) establishes notification procedures for projects already under contract. This situation involves notification only, since the contract changes are for conditions beyond the reasonable control of the contracting officer. A waiting period could result in contract claims and increases in project cost.

Section 2854. Restoration or Replacement of damaged or destroyed facilities.—The source of this section is section 2673 of title 10. The provisions of the source section would be incorporated in the new chapter without policy changes but with some technical and clerical revisions.

Subsection (a) permits military departments and defense agencies to respond to natural disasters or acts of arson or terrorism promptly. The committee expects prompt responses to restore mis-

sion effectiveness and to preclude further deterioration of damaged facilities. To assure timely responses, operations and maintenance appropriations may be used to temporarily repair or restore damaged facilities. If an economic analysis of life-cycle costs shows that the most cost effective alternative is facility replacement, military construction appropriations may be used to construct the replacement facility. The committee would expect that any replacement facility would use current design and material criteria and may be increased in size to meet current mission and functional requirements.

Subsection (b) establishes notification procedures when the cost of repair, restoration or replacement exceeds the maximum amount for a minor construction project. A replacement facility accomplished under the authority of Section 2805, Unspecified Minor Construction shall comply with the provisions of that section.

Section 2855. Law applicable to contracts for architectural and engineering services and construction design.—The source of this section is section 704 of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99. The provisions of the source section would be incorporated in the new chapter without change. The section requires that the contracting for architectural and engineering services for military construction projects shall continue to be awarded in accordance with presently established procedures, customs and practices. In that regard, it will be in concert with law governing civilian agencies. This law is the recognized and established procedure for obtaining architectural, engineering and related services for the Federal Government.

Section 2856. Limitations on barracks space by pay grade.—This is a new section.

Subsection (a) requires the Secretary of Defense to prescribe regulations establishing the maximum allowable net square feet per occupant for new permanent barracks. For open bay, trainee barracks, a maximum of 72 net square feet per occupant should be specified.

The committee intends that a standard room module be established for all Services that would accommodate up to four persons depending upon pay grade with a net living area of 90 square feet for the lower ranking enlisted personnel providing the basis for design. One bathroom should be supplied with each sleeping room. Net living area is the clear area in the sleeping room allocated for an individual's bed, locker and circulation, but excludes lounges, bathrooms, and general circulation.

Subsection (b) requires submission of proposed regulations for new permanent barracks construction to the appropriate committees of Congress and a 21-day waiting period before the regulations take effect. The committee recognizes the differences in responsibilities assigned by the Services to personnel by pay grade and that these differences alter the way a Service prefers to assign personnel to a barracks room. Therefore, there should be included with the proposed regulations for new permanent barracks construction, each Services' plan for assigning personnel by pay grade to a room.

Section 2857. Use of solar energy systems.—The source of this section is section 2688 of title 10 and section 703(h) of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99.

The provisions of the source sections would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions.

Subsection (a) requires the Secretary of Defense to encourage the use of solar systems, either active or passive, where such use would be practical and economically feasible.

Subsection (b)(1) requires consideration of solar energy systems in design of all new facilities where solar energy, if cost effective, has the potential for significant savings of fossil fuel derived energy. Subsection (b)(2) requires that contracts for construction resulting from the design of (b)(1) include a requirement for installing a solar energy system where such system can be shown to be cost effective.

Subsection (c)(1) defines cost effectiveness for the purpose of this section. Subsection (c)(2) provides further guidance on items to be included in the life cycle costing procedures. Subsection (c)(3) requires a reduction in the original investment cost when calculating life cycle costs.

Subsection (d) permits increases in cost or in floor area authorized by law to equip a military construction or a military family housing project with solar systems, either active or passive.

Section 2858. Limitation on the use of funds for expediting a construction project.—The source of this section is section 103 of the Fiscal Year 1982 Military Construction Appropriations Act, Public Law 97-106. The provisions of the source section would be incorporated in the new chapter without policy changes, but with some technical and clerical revisions. The section prohibits using funds appropriated for military construction for costs involved in expediting a construction project unless the expenditure is necessary to protect the national interest and a reasonable date is established for completion of the project. This section applies to both pre-award and post-award expediting of a construction contract.

Section 2859. Transmission of annual military construction authorization request.—The source of this section is section 2212 of title 10. The provisions of the source section would be incorporated in the new chapter without change. The section sets the time for submitting the annual request for military construction to the Congress.

Section 2860. Availability of appropriations until spent.—The sources of this section are section 649c of title 31 and section 121 of the Fiscal Year 1982 Military Construction Appropriation Act, Public Law 97-106. Section 121 had effectively superseded section 649 of title 31, which gave unlimited time for spending military construction funds. Section 121 limited obligations to five fiscal years for a military construction project or a contract for a project or for any portion of a project or any portion of a contract for a project. The bill proposes to amend section 649c of title 31 to remove the term "and the construction of public works" and to retain section 121 with some technical and clerical revisions. A technical amendment would permit obligation of funds for a project after five years, subject to notifying the concerned committees of Congress.

Section 2861. Annual report to Congress.—This is a new section that consolidates all reporting requirements; such as, cost variation, minor construction and NATO Infrastructure, in one section.

General remarks on this topic are included under "Major Provisions of the Bill".

Subsection (a) requires the submission of an annual report at the same time the annual request for military construction authorization is submitted. For the purpose of examining trends, information is requested also for the two most recent fiscal years for comparision with budget request data.

Subsection (b) sets forth the information to be provided. Only those subsections that require information to augment that discussed under "Major Provisions of the Bill" are addressed.

(b)(2) Requests information to enable committee oversight of minor construction funds authorized under section 2805.

(b)(3) Requests information to monitor trends in, the current status of, and future progress expected in obtaining NATO Infrastructure recoupments.

(b)(4) Requests information to evaluate the number and dollar amount of architectural and engineering (A&E) contracts. The report required by this section is expected to identify the top 10 A&E firms in terms of dollar value of contracts received and to summarize the award of design contracts to "⅛small business" firms. Information is also requested to evaluate the ratio of design performed in-house and by contract.

(b)(6) Requests a summary report on the cost variation notifications that have occurred over the preceding fiscal year and a comparison of that data with data from the prior fiscal year. An analysis is requested that examines the cost variation reports and summarizes whether the cost variations were the result of a lack of competition as measured by the number of bids received on these projects as compared with the average number of bids received on all projects, or whether there was a lack in quality of the plans and specifications as measured by spread of the bidders, or whether there was a lack of quality in the budget estimate as measured by the normal and actual variance, or whether the cost variations may have been due to other factors such as unexpected increases in petroleum product costs.

Amendment Relating to Facilities for Reserve Components

Section 3 of the bill makes various amendments to chapter 133, title 10, relating to facilities for Reserve components. Subsection (d)(1) amends section 2232—Definitions—This amendment which extends the definition of "State" permits the removal of repetitive terms in eight other subsections of the title. Subsections (d) (2) and (3) strike out the repetitive terms. Subsection (d)(4) amends 2238—Army National Guard of United States; Air National Guard of United States: limitation on relocation of units—to conform to the new definition for "State."

Subsection (e) amends clause (5) of section 2233(a). This amendment conforms this clause to the new definition for "State" and makes technical and clerical changes to clarify that the restrictions of a 75-percent contribution for an armory extend to clauses (4) and (5) only of 2233.

Requirement for Certain New Annual Authorizations of Appropriations Relating to Military Construction

Section 4 amends section 138 of title 10--Annual authorization of appropriations and personnel strengths for the Armed Forces; annual manpower requirements and operations and maintenance reports—This amendment adds a requirement for authorization of appropriations for architect and engineering services and construction design carried out under the authority of section 2807 of the new chapter and Defense Access Roads carried out under the authority of section 210 of title 23. The amendment also excludes from the requirement of annual authorization of appropriations those activities carried out under the authority of section 2821—Requirement for authorization of appropriations for construction and acquisition of military family housing—and section 2853—Authorized cost variation.

Acquisition of Real Property: Cost Variations

Section 5 amends section 2676 of title 10—Acquisition of real property. The source of a portion of this amendment is section 701 of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99, which has been added to this section without change. This provision permits, under the authority of a land acquisition project, the making of surveys and the acquiring of the land interest by gift, purchase, exchange or otherwise. Section 2676 presently requires express authorization to acquire an interest in land. The express authorization for land acquisition would be obtained in future Military Construction Authorization Acts by: (1) the first sentence of sections 101, 201, and 301 of such acts, which would (paraphrased) state the Secretary of a military department may acquire real property for the installations and locations that follow, and (2) displaying on a project justification document the land acquisition proposed for each installation and location listed.

Where land acquisition is incident to a construction project, the land acquisition may be displayed on the project justification document. The committee intends that land acquisition be considered to be incident to a construction project if the land acquisition cost is less than 30 percent of the total construction project cost including the land acquisition cost. If land acquisition is not displayed on a project justification document, it would not meet the requirement of express authorization of section 2676 and such acquisition would have to be deferred. Deferral to obtain express authorization in a future Military Construction Authorization Act would be required unless the land acquisition qualifies for the use of: (1) minor land acquisition authority of section 2672 or (2) urgency authority of section 2672a of title 10.

The remainder of the amendment is new to this section, but it is not a new policy. It places the authority for cost variation for land acquisition projects, using the same standards as are used for other military construction projects, in the appropriate section and chapter of title 10.

Codification of Other Permanent Provisions of Law

Section 6 of the bill codifies in various existing chapters of title 10 several permanent provisions of law that have been enacted in annual military construction authorization bills but that are not appropriate for inclusion in the new chapter of title 10 added by section 2 of the bill.

Subsection (a) adds a new section 2394 to chapter 141—Miscellaneous Procurement Provisions. The sources of the new section are section 803(b) of the Fiscal Year 1979 Military Construction Authorization Act, Public Law 95-356 as amended by section 802 of the Fiscal Year 1980 Military Construction Authorization Act, Public Law 96-125 and section 613 of the Fiscal Year 1978 Military Construction Authorization Act, Public Law 95-82. The provisions of section 2394 are reviewed by subsection as follows:

Subsection (a) of section 2394 permits the Secretary of a military department to enter into contracts for up to 30 years for: (1) the development of geothermal energy on military lands, (2) the provision and operation by others of energy production facilities on government or private land and the purchase of energy produced from such facilities, and (3) the purchase of refuse derived fuel or fuel derived from biomass or other sources. The provisions of this subsection are basically the same as those of the source sections cited above for contracts for development of geothermal energy and provision of energy production facilities. The contracting period for purchasing refuse derived material would be increased from 10 years to 30 years to aline it with the other energy contracting periods.

Subsection (b) of section 2394 sets conditions for entering into such contracts, which are the same as those of the source sections. The conditions are approval of the contract by the Secretary of Defense and notification of the concerned committees of Congress of the terms of the contract.

Subsection (c) of section 2394 permits such long term procurement contracts to be funded from annual appropriations. This is the same provision as exists in section 613 cited above for long term contracts for refuse derived fuel.

Should a public or quasi-public entity propose an energy or fuel production facility to serve a region, the payment of a proportionate share of the capital cost by a military department would be entirely appropriate, just as a military department may contribute to the capital cost of regional water or sewer systems. The use of the authority of this section is not intended to enable a military department to compete with a public or private utility. It is intended to permit the exploration of a wide range of co-generation possibilities so that the conservation of scarce resources may be maximized.

Subsection (b) amends Chapter 153 of title 10—Exchange of Material and Disposal of Obsolete, Surplus or Unclaimed Property—Chapter 153 is amended by adding a new section 2577 titled "Disposal of recyclable materials". The source of the new section is section 612 of the Fiscal Year 1975 Military Construction Authorization Act, Public Law 93-552. This provision permitted the proceeds from the sale of recyclable material to be credited first to the cost of collecting and processing the materials and second to projects for

environmental improvement and energy conservation. The new section retains these principles and expands them to provide incentive for installation commanders to have an aggressive material recycling program. The key incentive is the ability to transfer 50 percent of net proceeds to the nonappropriated morale and welfare account of the installation to be used for any morale or welfare activity. The provisions of section 2577 are reviewed by subsection as follows:

Subsection (a) of section 2577 permits the sale of recyclable materials. It requires the designation of military installations that have established a qualifying recycling program and it requires crediting proceeds from the sale of recyclable materials first to the costs for processing recyclable materials. It permits the use of 50 percent of the balance for projects for pollution abatement, energy conservation and occupational safety and health activities and the transfer of the other 50 percent to the nonappropriated morale and welfare account.

Subsection (b) limits the accumulation of excessive balances in the recyclable materials account and requires the transfer of excesses to the Treasury as miscellaneous receipts.

Subsection (c) amends Chapter 159 of title 10—Real Property; Related Personal Property; and Lease of Non-excess Property—Chapter 159 is amended by adding two new sections. The sections are: 2689 titled "Development of geothermal energy on military lands" and 2690 titled "Restriction on fuel sources for new heating systems". The source of section 2689 is section 803(a) of the Fiscal Year 1979 Military Construction Authorization Act, Public Law 95-356 as amended by section 908 of the Fiscal Year 1982 Military Construction Authorization Act, Public Law 97-99. Clerical changes only have been made to section 803 as amended. The source of section 2690 is section 808 of the Fiscal Year 1981 Military Construction Authorization Act, Public Law 96-418. The provisions of section 808 have not been changed except for substituting the words "heating system" for "facility or plant" to make clear that the heat input limitation applied to not only an individual boiler but to any combination of boilers or other heat producing equipment that would be required to meet the system heating demand of a heating plant. It is not intended that an installation heating system be subdivided into satellite systems to remain below the heat input limitation of this section. The only other changes to section 808 were clerical changes.

Repealer

Section 7 repeals certain provisions of law. Each section repealed, with an explanation of why it is repealed, follows:

Section 2212. "Transmission of annual military construction authorization request" is transferred to the new chapter as section 2859.

Section 2661. "Planning and construction of public works projects by military departments" is repealed, since other sections of title 10 set forth the oversight functions of the Secretary of Defense with respect to the military departments. However, the committee expects the Secretary of Defense to continue to establish uniform

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policy for and maintain surveillance of the planning, programing and construction of military facilities, the military family housing program and the reserve facility construction program.

Section 2673. "Restoration or replacement of facilities damaged or destroyed" is transferred to the new chapter as section 2854.

Section 2674. "Minor construction projects" is transferred to the new chapter as section 2805, "Unspecified minor construction".

Section 2675(d). This subsection, which set limits on the monthly rental amount for family housing in foreign countries, is incorporated in section 2828 as subsection (e).

Section 2678. "Acquisition of mortgaged housing units" is repealed because there is no longer a need for this provision.

Section 2681. "Construction or acquisition of family housing and community facilities in foreign countries" is repealed because it is obsolete. However, a saving provision has been included in section 9 of this bill to permit continuance of payments to the Commodity Credit Corporation until the debt has been liquidated.

Section 2684. "Construction of family quarters; limitations on space" is transferred to the new chapter as section 2826.

Section 2686. "Leases: Military family housing" is transferred to the new chapter as subsections (a) and (b) of section 2828.

Section 2688. "Use of solar energy facilities in new facilities" is transferred to the new chapter as section 2857.

Sections 4774 and 9774. These sections, which require notification and authorization for military construction and military family housing construction over $100,000, have been superseded by other provisions of title 10.

Section 504 of the Act of September 28, 1951, Public Law 82-155 (31 U.S.C. 723), authorized the use of appropriated funds for advance planning, construction design and architectural services. The provisions of this section are included in the new chapter as subsection (a) of section 2807.

Section 103 of the Act of August 30, 1957, Public Law 85-241 (42 U.S.C. 1594h), authorizing the Secretary of the Army to purchase up to 300 family housing units out of appropriations available for military construction family housing is repealed as obsolete. The prohibition of section 406(a) of the same act against contracting for family housing units unless the actual number of units have been specifically authorized by an annual military construction authorization act is retained in the new chapter as section 2822.

Section 420 of Public Law 86-149 (7 U.S.C. 1704b), is repealed as obsolete.

Section 501 of Public Law 87-554 (42 U.S.C. 1594a-1), established a Family Housing Management Account. The authority and provisions of this section are included in the new chapter as section 2831.

Section 503 of Public Law 87-554 (42 U.S.C. 1594h-1), which authorized the Secretary of the Army to purchase up to 300 units of family housing from appropriations available for military construction family housing, is repealed as obsolete.

Section 507 of Public Law 87-554 (42 U.S.C. 1594a-2), established a requirement that appropriations for construction, alteration or operation and maintenance of military family housing must be au-

thorized. This requirement is included in the new chapter as subsection (a) of section 2821.

Section 610 of Public Law 89-188 (10 U.S.C. 1077nt), which established requirements for the incorporation of facilities for obstetrical care in a hospital, is repealed because the provision has served its purpose. Today, it is accepted practice to consider, and in most cases incorporate, obstetrical care facilities in a new military hospital.

Section 611 of Public Law 89-188 (10 U.S.C. 2662), which established requirements to report to the Congress prior to closing of military installation, is repealed because its provisions have been superseded by the provisions of section 2687, "Base closure and realignments" of title 10, United States Code.

Section 610 of Public Law 89-568 (50 U.S.C. App 2287), which established provisions for fallout protection, is repealed. The provisions of the section have served their purpose as written and further study is needed before other provisions are incorporated into permanent law.

Section 612 of Public Law 89-568 (31 U.S.C. 723a), which established notification procedures for advance planning, construction design, and architectural services, is repealed. Provisions, similar to those of section 612 are incorporated in section 2807(b) of the new chapter.

Section 610(a) of Public Law 90-110 (42 U.S.C. 1594h-2), which established repair or improvement cost limitations for family housing, is repealed. Similar provisions are included in the new chapter as section 2825.

Section 807 of Public Law 90-408, which established procedures for waste disposal systems construction, is repealed because the section is obsolete.

Section 512 of Public Law 91-142, which authorized multi-year supply and services contracts for family housing maintenance, is repealed. Similar provisions are included in the new chapter as section 2829.

Section 508 of Public Law 91-511, which authorized relocation of military family housing units, is repealed. The same provisions are included in the new chapter as section 2827.

Section 508 of Public Law 92-545 (42 U.S.C. 1594j-1), which established authority for occupancy of inadequate quarters by members of the uniformed services subject to a charge against their basic allowance for quarters, is repealed. Similar provisions are incorporated in the new chapter in section 2830.

Section 509 of Public Law 93-552, which placed restrictions on the air conditioning of military family housing units in Hawaii, is repealed as unnecessary in view of current Department of Defense restrictive criteria for air conditioning.

Section 612 of Public Law 98-552, which established procedures for using the proceeds from the sale of recyclable materials, is repealed. Revised procedures are included in a new section 2577 of chapter 153. The amendment to chapter 153 is proposed in section 5 of this bill.

Section 613 of Public Law 95-82, which established long-term contract authority for refuse-derived fuel procurement, is repealed. The provisions of this section are combined with the provisions of

section 803(b) of Public Law 95-356 as a new section 2394 in Chapter 141, Miscellaneous Procurement, of title 10 U.S.C. This is accomplished by section 6(a) (1) and (2) of this bill.

Section 803(a) of Public Law 95-356 (30 U.S.C. 1002a(a)), which established authority for development of geothermal resources on military lands, is repealed. The provisions of this section are moved with clerical changes only to chapter 159, Real Property, of title 10 U.S.C. by section 6(a) (1) and (2) of this bill.

Section 803(b) of Public Law 95-356, which established long-term contract authority for energy production facilities, is repealed. Its provisions are combined with the provisions of section 613 of Public Law 95-82 and incorporated in a new section 2394 of chapter 141. (See item No. 30 above).

Section 505 of Public Law 96-418, which established authority for settlement of contractor claims on military family housing, is repealed. Similar provisions are included in subsection (e) of section 2853 of the new chapter.

Section 808 of Public Law 96-418, which established restrictions on fuels used in new boiler plant construction, is repealed. Similar provisions are incorporated in a new section 2690 of title 10. This amendment would be accomplished by section 6(c)(1) of this bill.

Section 903 of Public Law 97-99, which provided construction authority under a declaration of war or national emergency, is repealed. The provisions of this section are included in the new chapter, without change, as section 2808.

The following table summarizes the repeal provisions:

DISPOSITION TABLE FOR PROVISIONS OF LAW REPEALED BY THE MILITARY CONSTRUCTION CODIFICATION ACT

Provision repealed	Disposition
10 U.S.C. 2212	10 U.S.C. 2859.
10 U.S.C. 2661	Repealed—obsolete.
10 U.S.C. 2673	10 U.S.C. 2854.
10 U.S.C. 2674	10 U.S.C. 2805.
10 U.S.C. 2675(d)	10 U.S.C. 2828(e).
10 U.S.C. 2678	Repealed—obsolete.
10 U.S.C. 2681	Repealed—obsolete.
10 U.S.C. 2684	10 U.S.C. 2826.
10 U.S.C. 2686	10 U.S.C. 2828(a), (b).
10 U.S.C. 2688	10 U.S.C. 2857.
10 U.S.C. 4774	Repealed—obsolete.
10 U.S.C. 9774	Repealed—obsolete.
Sec. 504 of the Act of Sept. 28, 1951 (31 U.S.C. 723).	10 U.S.C. 2807(a).
Sec. 103 of the Act of Aug. 30, 1957 (42 U.S.C. 1594h).	Repealed—obsolete.
Sec. 406(a) of the Act of Aug. 30, 1957 (42 U.S.C. 1494i).	10 U.S.C. 2822.
Sec. 420 of Public Law 86-149 (7 U.S.C. 1704b).	Repealed—obsolete.
Sec. 501 of Public Law 87-554 (42 U.S.C. 1594a-1).	10 U.S.C. 2831.
Sec. 503 of Public Law 87-554 (42 U.S.C. 1594h-1).	Repealed—obsolete.
Sec. 507 of Public Law 87-554 (42 U.S.C. 1594a-2).	10 U.S.C. 2821(a).

DISPOSITION TABLE FOR PROVISIONS OF LAW REPEALED BY THE MILITARY CONSTRUCTION CODIFICATION ACT—Continued

Provision repealed	Disposition
Sec. 507 of Public Law 88-174 (42 U.S.C. 1594k).	Repealed—no longer desirable.
Sec. 610 of Public Law 89-188 (10 U.S.C. 1077 note).	Repealed—no longer necessary.
Sec. 611 of Public Law 89-188 (10 U.S.C. 2662 note).	Repealed—superseded by 10 U.S.C. 2687.
Sec. 610 of Public Law 89-568 (50 U.S.C. App. 2287).	Repealed—obsolete.
Sec. 612 of Public Law 89-568 (31 U.S.C. 723a).	10 U.S.C. 2807(b).
Sec. 610(a) of Public Law 90-110 (42 U.S.C. 1594h-2).	10 U.S.C. 2825(b).
Sec. 807 of Public Law 90-408	Repealed—obsolete.
Sec. 512 of Public Law 91-142	10 U.S.C. 2829.
Sec. 508 of Public Law 91-511	10 U.S.C. 2827.
Sec. 508 of Public Law 92-545 (42 U.S.C. 1594j-1).	10 U.S.C. 2830.
Sec. 509 of Public Law 93-552	Repealed—no longer necessary.
Sec. 612 of Public Law 93-552	10 U.S.C. 2577.
Sec. 613 of Public Law 95-82	10 U.S.C. 2394.
Sec. 803(a) of Public Law 95-356 (30 U.S.C. 1002a(a)).	10 U.S.C. 2689.
Sec. 803(b) of Public Law 95-356 (30 U.S.C. 1002a(b)).	10 U.S.C. 2394.
Sec. 505 of Public Law 96-418	Repealed—no longer necessary.
Sec. 808 of Public Law 96-418	10 U.S.C. 2690.
Sec. 903 of Public Law 97-99	10 U.S.C. 2808.

AMENDMENTS TO TITLE 10 GOVERNING LEASES IN FOREIGN COUNTRIES

Section 8 of the bill amends section 2675 of title 10, United States Code, to exclude family housing from the provisions of this section, since similar provisions are included in section 2828 of the new chapter.

SAVINGS PROVISIONS

Section 9 of the bill provides savings provisions for two outstanding housing programs.

Subsection (a) requires continuing payments (until the amount due has been liquidated) for foreign currencies used for housing constructed or acquired under the Agricultural Trade Development and Assistance Act of 1954.

Subsection (b) permits continuing in effect agreements that guaranteed rental returns to builders of family housing in foreign countries. These agreements were made under the authority of section 507 of the Fiscal Year 1964 Military Construction Authorization Act, Public Law 88-174.

Technical and Clerical Amendments

Section 10 of the bill makes certain technical and clerical changes required by other amendments made by the bill.

Establishment of Certain Amounts Required To Be Specified by Law

Section 11 of the bill specifies certain amounts that are required to be set forth by law under the provisions of the new chapter 169 of title 10.

Effective Date

Section 12 of this bill establishes October 1, 1982, as the effective date for the bill.

Subsection (a) would establish the effective date for provisions of this bill and make the provisions of the bill extend to military construction projects and acquisition of military family housing authorized before, on or after that date.

In order not to affect the Fiscal Year 1983 budget cycle which has already begun, subsection (b) would delay the effective date by a year for the two areas where a change has been made to require new annual authorizations of appropriations in the future, namely Architectural and Engineering Services and Construction Design; and Defense Access Roads.

Draft of Military Construction Authorization Bill for Fiscal Year 1984

Enactment of this bill will require changes in the format of the annual military construction authorization bill. The committee has prepared a draft of the format that it expects to use for the fiscal year 1984 and subsequent bills. That draft bill follows:

A BILL To authorize certain construction at military installations for fiscal year 1984, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1984".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

Sec. 101. The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

[Listing]

FAMILY HOUSING

Sec. 102. The Secretary of the Army may construct family housing units and acquire mobile home facilities at the following installations in the number of units shown, and in the amount shown, for each installation:

[List of military installations, number of units, dollar amounts]

[E.g. Ford Ord, California, 560 units, $24,432,000, and 50 mobile home spaces, $690,000.]

[Note.—Authority to acquire family housing units in lieu of authorized construction is to be set out in permanent law.]

IMPROVEMENT OF EXISTING MILITARY FAMILY HOUSING UNITS

Sec. 203. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures to improve existing military family housing units in an amount not to exceed $----------.

(b) Within the amount specified in subsection (a), the Secretary of Defense may, notwithstanding the maximum amount per unit prescribed in section 2825(b) of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

[E.g. Elmendorf Air Force Base, Alaska, 264 units, $3,000,000.]

ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN

SEC. 104. The Secretary of the Army may carry out architectural and engineering services and construction design in connection with military family housing construction (including improvements) in the amount of $_____.

TITLE II—NAVY

[PARALLEL TO TITLE I]

TITLE III—AIR FORCE

[PARALLEL TO TITLE I]

TITLE IV—DEFENSE AGENCIES

[PARALLEL TO TITLE I]

TITLE V—AUTHORIZATION OF APPROPRIATIONS AND RECURRING ADMINISTRATIVE PROVISIONS

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY CONSTRUCTION

SEC. 501. (a) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction and military family housing functions of the Department of the Army in the total amount of $_____ as follows:

(1) $_____ is authorized to be appropriated for construction projects authorized by section 101 that are to be carried out inside the United States.

(2) $_____ is authorized to be appropriated for construction projects authorized by section 101 that are to be carried out outside the United States.

(3) $_____ is authorized to be appropriated for unspecified minor construction projects under section 2804 of title 10, United States Code.

(4) $_____ is authorized to be appropriated for architectural and engineering services and construction design under section 2807 of title 10, United States Code.

(5) For military family housing functions of the Department of the Army funds are authorized to be appropriated in amounts as follows:

(A) For construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2828 of title 10, United States Code, and architectural and engineering services and construction design, as authorized by title I, the sum of $_____.

(B) For support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on

mortgage debts incurred, payments to the Commodity Credit Corporation, and payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), the sum of $_____, of which not more than $_____ may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $_____ may be obligated or expended for the leasing of military family housing units in foreign countries.

(C) For homeowners assistance under the authority of the Secretary of Defense described in section 2834 of title 10, United States Code, including acquisition of properties, the sum of $_____.

(6) $_____ is authorized to be appropriated for advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code.

(b) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction and military family housing functions of the Department of the Navy as follows:

[PARALLEL TO SUBSECTION (A)]

(c) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction and military family housing functions of the Department of the Air Force as follows:

[PARALLEL TO SUBSECTION (a)]

(d) Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction and military family housing functions of activities and agencies of the Department of Defense other than the military departments as follows:

[(1)–(5) PARALLEL TO SUBSECTION (a)]

(6) $_____ is authorized for construction projects under the contingency construction authority of the Secretary of Defense under section 2803 of title 10, United States Code.

(7) $_____ is authorized for contribution by the Secretary of Defense under section 2808 of title 10, United States Code, for the United States share of the cost of construction projects for the North Atlantic Treaty Organization Infrastructure.

LIMITATION ON COST VARIATIONS FOR CONSTRUCTION PROJECTS

SEC. 502. Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all construction projects and family housing construction projects carried out under each of titles I, II, III, and IV of this Act may not exceed the total amount authorized under section 501 to be appropriated for the military department concerned

or the Secretary of Defense, as the case may be, for construction projects and family housing construction projects.

ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

SEC. 503. During the period beginning on the date of the enactment of this Act or October 1, 1983, whichever is later, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1985 or October 1, 1984, whichever is later, the following amounts apply:

(1) The maximum amount for an unspecified minor military construction project under section 2805 of title 10, United States Code, is $1,000,000.

(2) The amount of a contract for architectural and engineering services or construction design that makes such a contract subject to the reporting requirement under section 2807 of title 10, United States Code, is $300,000.

(3) The maximum amount per unit for an improvement project for family housing units under section 2825 of title 10, United States Code, is $30,000.

(4) The maximum annual rental for a family housing unit leased in the United States, Puerto Rico, or Guam under section 2828(b) of title 10, United States Code, is $6,000.

(5)(A) The maximum annual rental for a family housing unit leased in a foreign country under section 2828(c) of title 10, United States Code, is $16,800.

(B) The maximum number of family housing units that may be leased at any one time in foreign countries under section 2828(c) of title 10, United States Code, is 29,000.

(6) The maximum rental per year for family housing facilities, or for real property related to family housing facilities, leased in a foreign country under section 2828(f) of title 10, United States Code, is $250,000.

EXPIRATION OF AUTHORIZATIONS; EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

SEC. 504. (a)(1) Except as provided in paragraph (2), all authorizations contained in titles I, II, III, and IV for military construction projects and family housing projects, and all authorizations of appropriations therefor contained in sections 501 and 502, expire on September 30, 1985, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1986, whichever is later.

(2) The provisions of paragraph (1) do not apply to authorizations for military construction projects, and authorizations of appropriations for military construction projects, for which appropriated funds have been obligated before October 1, 1985, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1986, whichever is later, for construction contracts or land acquisition.

(b) Notwithstanding the provisions of section 705(a) of the Military Construction Authorization Act, 1983 (Public Law 97– ; 96 Stat.), the following projects authorized in the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), shall remain in effect until October 1, 1985, or the date of the enact-

ment of the Military Construction Authorization Act for fiscal year 1986:

(1) [Listing]
(2)
(3)

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 505. Titles I through IV shall take effect on October 1, 1983.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR ADDITIONAL FACILITIES

SEC. 601. There are authorized to be appropriated for fiscal years beginning after September 30, 1983, for the cost of acquistion and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities) the following amounts:

(1) For the Department of the Army—
  (A) for the Army National Guard of the United States, $_____, and
  (B) for the Army Reserve, $_____.
(2) For the Department of the Navy, for the Naval Reserve and the Marine Corps Reserve, $_____.
(3) For the Department of the Air Force—
  (A) for the Air National Guard of the United States $_____; and
  (B) for the Air Force Reserve, $_____.

TITLE VII—GENERAL PROVISIONS

[NONRECURRING PROVISIONS]

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE

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Subtitle A—General Military Law

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

131. Planning and Coordination 2201

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169. Military Construction and Military Family Housing 2801

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 4—DEPARTMENT OF DEFENSE

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§ 138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports

(a) * * *

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(f)(1) In subsection (a)(6), the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies), [but excludes any activity to which section 2673 or 2674, or chapter 133, of this title apply, or to which section 406(a) of Public Law 85–241 (42 U.S.C. 1594i) applies], *any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under*

section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

Chap. Sec.
131. Planning and Coordination 2201

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169. Military Construction and Military Family Housing 2801

CHAPTER 131—PLANNING AND COORDINATION

Sec.

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[2212. Transmission of annual military construction authorization request.]

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[§ 2212. Transmission of annual military construction authorization request

[The Secretary of Defense shall transmit to the Congress the annual requests for military construction authorization for a fiscal year during the first ten days after the President transmits to the Congress the Budget for such fiscal year pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).]

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CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

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§ 2232. Definitions

In this chapter:

[(1) "State" and "Territory" include political subdivisions and military units thereof and tax-supported agencies therein.]

(1) "State" means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States and includes political subdivisions and military units thereof and tax-supported agencies therein.

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§ 2233. Acquisition

(a) Subject to sections 2233a, 2234, 2235, 2236, and 2238 of this title and subsection (c) of this section, the Secretary of Defense may—

(1) acquire by purchase, lease, or transfer, and construct, expand, rehabilitate, or convert and equip, such facilities as he determines to be necessary to carry out the purposes of this chapter;

(2) contribute to any State [or Territory, Puerto Rico, or the District of Columbia] such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it for use jointly by units of two or more reserve components of the armed forces;

(3) contribute to any State [or Territory, Puerto Rico, or the District of Columbia] such amounts as he determines to be necessary to expand, rehabilitate, or convert facilities owned by it (or to acquire, construct, expand, rehabilitate, or convert additional facilities) made necessary by the conversion, redesignation, or reorganization of units of the Army National Guard of the United States or the Air National Guard of the United States authorized by the Secretary of the military department concerned;

(4) contribute to any State [or Territory, Puerto Rico, or the District of Columbia] such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of the Army National Guard of the United States or the Air National Guard of the United States;

[(5) contribute to any State or Territory, Puerto Rico, or the District of Columbia, such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by the failure of existing facilities to meet the purposes of this chapter. A contribution made for an armory may not be more than 75 percent of the cost of construction of which it is applied; and]

(5) contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additional facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this chapter; and

(6) contribute to any State [or Territory, Puerto Rico, or the District of Columbia] such amounts for the construction, alteration, or rehabilitation of arms storage rooms as the Secretary determines to be required to meet a change in Department of Defense standards related to the safekeeping of arms.

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(e) The Secretary of Defense may procure [advance planning, construction design, and architectural services] *architectural and engineering services and construction design* in connection with facilities to be established or developed under this chapter which are not otherwise authorized by law.

[(f) Facilities authorized by subsection (a) shall not be considered "military public works" under the provisions of the military construction authorization acts that repeal prior authorizations for military public works.]

(f)(1) Authority provided by law to construct, expand, rehabilitate, convert, or equip any facility under this section includes authority to expend funds for surveys, administration, overhead, planning, and supervision incident to any such activity.

(2) Authority to acquire real property under this section includes authority to make surveys and to acquire interests in land (including temporary interests) by purchase, gift, exchange of Government-owned land, or otherwise.

[§ 2233a. Limitation

[(1) No expenditure or contribution that is more than $175,000 may be made under section 2233 of this title for any facility until after the expiration of thirty days from the date upon which the Secretary of Defense or his designee notifies the Senate and the House of Representatives of the location, nature, and estimated cost of such facility. This requirement does not apply to the following:

[(a) Facilities acquired by lease.

[(b) Facilities acquired, constructed, expanded, rehabilitated, converted, or equipped to restore or replace facilities damaged or destroyed, where the Senate and the House of Representatives have been notified of that action.

[(2) Under such regulations as the Secretary of Defense may prescribe, any project authorized pursuant to section 2233(a) which does not cost more than $50,000 may be accomplished from appropriations available from maintenance and operations.]

§ 2233a. Limitation on certain projects; authority to carry out small projects with operation and maintenance funds

(a)(1) Except as provided in paragraph (2), an expenditure or contribution in an amount in excess of $200,000 may not be made under section 2233 of this title for any facility until the Secretary of Defense has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the location, nature, and estimated cost of the facility and a period of 21 days has passed after receipt of such notification.

(2) Paragraph (1) does not apply to expenditures or contributions for the following:

(A) Facilities acquired by lease.

(B) A project for a facility that has been authorized by Congress, if the location and purpose of the facility are the same as when authorized and if, based upon bids received—

(i) the scope of work of the project, as approved by Congress, is not proposed to be reduced by more than 25 percent; and

(ii) the current working estimate of the cost of the project does not exceed the amount approved for the project by more than (I) 25 percent, or (II) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser.

(b) Under such regulations as the Secretary of Defense may prescribe, a project authorized under section 2233(a) of this title that costs $50,000 or less may be carried out with funds available for operations and maintenance.

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§ 2236. Contributions to States; other use permitted by States

(a) Contributions under section 2233 of this title are subject to such terms as the Secretary of Defense, after consulting the Committees on Armed Services of the Senate and the House of Representatives, considers necessary for the purposes of this chapter. Except as otherwise agreed when the contribution is made, a facility provided by a contribution under section 2233(a)(3) or (4) of this title may be used jointly by units of two or more reserve components of the armed forces only to the extent that the State [or Territory, Puerto Rico, or the District of Columbia, whichever is concerned,] considers practicable.

(b) A contribution made for an armory under section 2233(a)(4) *or* (*5*) of this title may not be more than 75 percent of the cost of the construction to which it is applied. For the purpose of computing the cost of construction under this subsection, the amount contributed by the State [or Territory, Puerto Rico, or the District of Columbia, whichever is concerned,] may not include the cost or market value of any real property that it has contributed.

(c) If a State [or Territory, Puerto Rico, or the District of Columbia] acquires, constructs, expands, rehabilitates, or converts a facility with amounts contributed under section 2233 of this title, it may—

(1) permit persons or organizations other than members and units of the armed forces to use the facility under such leases or other agreements as it considers appropriate; and

(2) apply amounts received under those leases or agreements to the cost of maintaining the facility.

(d) Except as otherwise agreed when the contribution is made, and except as the agreement is later changed, a State [or Territory, Puerto Rico, or the District of Columbia] may not permit any use or disposition of the facility that would interfere with its use—

(1) for administering and training the reserve components of the armed forces; or

(2) in time of war or national emergency, by other units of the armed forces or by the United States for any other purpose.

§ 2237. Supervision of construction: compliance with State law

(a) Any construction, expansion, rehabilitation, or conversion under any provision of this chapter except section 2233(a)(2), (3), and (4) of this title may be performed under the supervision of the Chief of Engineers of the Army or the head of such office or agency in the Department of the Navy as the Secretary of the Navy may designate.

(b) The construction, expansion, rehabilitation, or conversion of facilities in a State [or Territory, Puerto Rico, or the District of Columbia] under section 2233(a)(2), (3), or (4) of this title shall be done according to the laws of that jurisdiction and under the supervision of its officials, subject to the inspection and approval of the Secretary of Defense.

§ 2238. Army National Guard of United States; Air National Guard of United States: limitation on relocation of units

A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the governor of the

State [or Territory, or Puerto Rico, or the commanding general of the National Guard of the District of Columbia, as the case may be] *or, in the case of the District of Columbia, the commanding general of the National Guard of the District of Columbia.*

§ 2239. *Waiver of certain restrictions*

(a) The Secretary of Defense and the Secretary of each military department may make expenditures and contributions under section 2233 of this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

(b) Authority provided by law to place permanent or temporary improvements on lands under section 2233 of this title may be exercised (1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and (2) even though the land is held temporarily.

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CHAPTER 141—MISCELLANEOUS PROCUREMENT PROVISIONS

Sec.

2381. Contracts: regulations for bids.

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2394. Contracts for energy or fuel for military installations.

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§ 2388. Liquid fuels: contracts for storage, handling, and distribution

(a) * * *

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(c) A contract under this section may contain an option for the purchase by the United States of the facility covered by the contract at the expiration or termination of the contract, without regard to [section 4774(d) or 9774(d) of this title, section 529 of title 31, or section 259 or 267 of title 40,] *section 3648 of the Revised Statutes (31 U.S.C. 529)* and before approval of title to the underlying land by the Attorney General.

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§ 2394. *Contracts for energy or fuel for military installations*

(a) Subject to subsection (c), the Secretary of a military department may enter into contracts for periods of up to 30 years—

(1) under section 2689 of this title; and

(2) for the provision and operation of energy production facilities on real property under the Secretary's jurisdiction or on private property and the purchase of energy produced from such facilities.

(b) A contract may be made under subsection (a) only—

(1) after the approval of the proposed contract by the Secretary of Defense; and

(2) after the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have been notified of the terms of the proposed contract, including the dollar

amount of the contract and the amount of energy or fuel to be delivered to the Government under the contract.

(d) The costs of contracts under this section for any year may be paid from annual appropriations for that year.

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CHAPTER 153—EXCHANGE OF MATERIAL AND DISPOSAL OF OBSOLETE, SURPLUS, OR UNCLAIMED PROPERTY

Sec.

2571. Interchange of property and services.

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2577. Disposal of recyclable materials.

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§ 2577. Disposal of recyclable materials

(a)(1) The Secretary of Defense shall prescribe regulations to provide for the sale of recyclable materials held by a military department or defense agency and for the operation of recycling programs at military installations. Such regulations shall include procedures for the designation by the Secretary of a military department (or by the Secretary of Defense with respect to facilities of a defense agency) of military installations that have established a qualifying recycling program for the purposes of subsection (b)(2).

(2) Any sale of recyclable materials by the Secretary of Defense or Secretary of a military department shall be in accordance with the procedures in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

(b)(1) Proceeds from the sale of recyclable materials at an installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover the costs of operations, maintenance, and overhead for processing recyclable materials at the installation (including the cost of any equipment purchased for recycling purposes).

(2) If after such funds are credited a balance remains available to a military installation and such installation has a qualifying recycling program (as determined by the Secretary of the military department concerned or the Secretary of Defense), not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. A project may not be carried out under the preceding sentence for an amount greater than 50 percent of the amount established by law as the maximum amount for a minor construction project.

(3) The remaining balance available to a military installation may be transferred to the nonappropriated morale and welfare account of the installation to be used for any morale or welfare activity.

(c) If the balance available to a military installation under this section at the end of any fiscal year is in excess of $2,000,000, the amount of that excess shall be covered into the Treasury as miscellaneous receipts.

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CHAPTER 159—REAL PROPERTY; RELATED PERSONAL PROPERTY; AND LEASE OF NONEXCESS PROPERTY

Sec.

[2661. Planning and construction of public works projects by military departments.]

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[2673. Restoration or replacement of facilities damaged or destroyed.
[2674. Minor construction projects.]

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[2677. Options: property required for public works projects of military departments.]
2677. Options: property required for military construction projects.
[2678. Acquisition of mortgaged housing units.]

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[2681. Construction or acquisition of family housing and community facilities in foreign countries.]

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[2684. Construction of family quarters; limitations on space.]

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[2686. Leases: military family housing.]

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[2688. Use of solar energy systems in new facilities.]
2689. Development of sources of energy on or for military installations.
2690. Restriction on fuel sources for new heating systems.

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[§ 2661. Planning and construction of public works projects by military departments

[The Secretary of Defense shall maintain direct surveillance over the planning and construction of public works projects by the military departments. The Secretary shall keep currently and fully informed of the status, progress, and cost of, and other pertinent matters concerning those projects.]

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[§ 2673. Restoration or replacement of facilities damaged or destroyed

[With the approval of the Secretary of Defense and after notifying the Committees on Armed Services of the Senate and the House of Representatives, the Secretary of a military department may acquire, construct, rehabilitate, and install temporary or permanent public works, including appurtenances, utilities, equipment, and the preparation of sites, to restore or replace facilities that have been damaged or destroyed.

[§ 2674. Minor construction projects

[(a) Under such regulations as the Secretary of Defense may prescribe, the Secretary of a military department or the Director of a defense agency may acquire, construct, convert, extend, and install, at military installations and facilities, permanent or temporary public works not otherwise authorized by law including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters.

[(b)(1) Except as provided in paragraph (2), a project costing more than $1,000,000 may not be carried out under the authority of this section.

[(2) The cost of a project may be increased above $1,000,000—

[(A) to not more than $1,100,000 if the Secretary of Defense determines that such an increase is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress; and

[(B) to more than $1,100,000 but not more than $1,250,000 if (i) the Secretary of Defense determines that such an increase is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress, (ii) the Secretary of Defense has notified the Committees on Armed Services of the Senate and House of Representatives in writing that he has made those determinations with respect to the project, and (iii) a 15-day period has elapsed after the date the notification is received by the committees, or both committees approve such increase before the expiration of the 15-day period.

[(3)(A) Except as provided in subparagraph (B), a project costing more than $750,000 may not be carried out under this section unless approved in advance by the Secretary of Defense, and a project costing more than $500,000 but less than $750,000 may not be carried out under this section unless approved in advance by the Secretary of the military department or the Director of the defense agency concerned.

[(B) Approval under this paragraph is not required if the project has been authorized in an annual Military Construction Authorization Act.

[(c) The total costs for all projects initiated under authority of this section by any military department, or by the defense agencies, in any fiscal year (except those projects funded from appropriations available for operations and maintenance as provided in subsection (e)) may not exceed the total amount authorized for minor construction projects for such military department or for the defense agencies, as the case may be, in the annual Military Construction Authorization Act for such fiscal year.

[(d) Not more than $50,000 may be spent under this section during a fiscal year at any one installation or facility to convert structures to family quarters.

[(e) Only funds appropriated to a military department or to the defense agencies for minor construction projects may be used by such department or by such agencies to accomplish minor construction projects, except that the Secretary of a military department or the Director of a defense agency may spend, from appropriations available for maintenance and operations, amounts necessary for any project costing not more than $100,000 that is authorized under this section.

[(f) The Secretary of each military department and the Secretary of Defense, for the defense agencies, shall submit an annual detailed report to the Committees on Armed Services and Appropriations of the Senate and House of Representatives on the administration of this section. In addition, such committees shall be notified in writing at least fifteen days before any funds are obligated for a project ap-

proved under this section costing more than $500,000. Such notice is not required in the case of a project that has been authorized in an annual Military Construction Authorization Act.

[(g) As used in this section, "project" means a single undertaking which includes all construction work, land acquisition, and installation of equipment necessary to (1) accomplish a specific purpose, and (2) produce a complete and usable facility or a complete and usable improvement to an existing facility.

[(h) The Directors of the defense agencies shall carry out the construction of minor projects under authority of this section by or through a military deperament designated by the Secretary of Defense as provided in section 2682 of this title.]

§ 2675. Leases: foreign countries

[(a) Notwithstanding any other provision of law, the Secretary of a military department may acquire by lease, in any foreign country, structures and real property relating thereto that are needed for military purposes. A lease under this section may not be for a period of more than five years, except that a lease under this section for military family housing facilities and real property relating thereto may be for a period of more than five years but may not be for a period of more than ten years.]

(a) The Secretary of a military department may acquire by lease in foreign countries structures and real property relating to structures that are needed for military purposes other than for military family housing. A lease under this section may be for a period of up to five years, and the rental for each yearly period may be paid from funds appropriated to that military department for that year.

(b) A lease may not be entered into under this section [or any other provision of law] for structures [, family housing facilities,] or related property in any foreign country if the average estimated annual rental during the term of the lease is more than $250,000 until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed lease is submitted to the Committees on Armed Services of the Senate and House of Representatives.

[(c) A statement in a lease that the requirements of this section have been met, or that the lease is not subject to this section, is conclusive.

[(d)(1) Expenditures for the rental of family housing in foreign countries (including the cost of utilities and maintenance and operation) may not exceed $1,115 per month for any unit. The Secretary of Defense may waive the cost limitations specified in the first sentence of this paragraph with respect to not more than 150 such units if such units are leased for incumbents of special positions or for personnel assigned to Defense Attaché Offices or are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

[(2) Not more than 17,000 family housing units may be leased in foreign countries at any one time.]

§ 2676. Acquisition: limitation

(a) No military department may acquire real property not owned by the United States unless the acquisition is expressly authorized by law. The foregoing limitation shall not apply to the acceptance by a military department of real property acquired under the authority

of the Administrator of General Services to acquire property by the exchange of Government property pursuant to the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.).

(b) Authority provided the Secretary of a military department by law to acquire an interest in real property (including a temporary interest) includes authority—

(1) to make surveys; and

(2) to acquire the interest in real property by gift, purchase, exchange of real property owned by the United States, or otherwise.

(c)(1) Except as provided in paragraph (2), the cost authorized for a land acquisition project may be increased by not more than 25 percent of the amount appropriated for the project by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.

(2) A land acquisition project may not be placed under contract if, based upon the agreed price for the land—

(A) the scope of the acquisition, as approved by Congress, is proposed to be reduced by more than 25 percent; or

(B) the agreed price for the land exceeds the amount appropriated for the project by more than (i) 25 percent, or (ii) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser,

until subsection (d) is complied with.

(d) The limitations on reduction in scope or increase in cost of a land acquisition in subsection (c) do not apply if the reduction in scope or the increase in cost, as the case may be, is approved by the Secretary concerned and a written notification of the facts relating to the proposed reduced scope or increased cost (including a statement of the reasons therefor) is submitted by the Secretary concerned to the appropriate committees of Congress. A contract for the acquisition may then be awarded only (1) after a period of 21 days elapses from the date the notification is received by the committees, or (2) upon the approval of those committees, if before the end of that period each such committee approves the proposed reduced scope or increased cost.

§ 2677. Options: property required for [public works] *military construction* projects [of military departments]

(a) The Secretary of a military department may acquire an option on a parcel of real property before or after its acquisition is authorized by law, if he considers it suitable and likely to be needed for a military project of his department.

(b) As consideration for an option acquired under subsection (a), the Secretary may pay, from funds available to his department for real property activities, an amount that is not more than 5 [per centum] *percent* of the appraised fair market value of the property.

(c) For each six-month period ending on September 30 or March 31, during which he acquires options under subsection (a), the Secretary of each military department shall report those options to the Committees on Armed Services of the Senate and House of Representatives.

[§ 2678. Acquisition of mortgaged housing units

[The Secretary of a military department may buy, subject to the mortgage, any housing unit that is subject to a mortgage insured under Title VI or IX of the National Housing Act (12 U.S.C. 1736 et seq. and 1750 et seq.), if the housing unit is—

[(1) located near a military installation; and

[(2) suitable and adequate for housing members of the armed forces and their dependents.

[The Secretary may assume the obligation to make the payments on the mortgage that become due after the date of acquisition, and to make these payments he may use appropriations available for the construction of military public works.]

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[§ 2681. Construction or acquisition of family housing and community facilities in foreign countries

[(a) In addition to family housing and to community facilities that otherwise may be constructed or acquired by the Department of Defense, the Secretary of Defense may, with the approval of the President, construct, or acquire by lease or otherwise, family housing to be occupied as public quarters, and community facilities, in foreign countries by using foreign currencies that have a value of not more than $250,000,000 and that were acquired under sections 1691–1724 of title 7 or through other commodity transactions of the Commodity Credit Corporation.

[(b) The Department of Defense shall pay the Commodity Credit Corporation an amount not to exceed $6,000,000 a year until the amount due for foreign currencies used for housing constructed or acquired under this section has been liquidated.

[(c) The Secretary of Defense shall report to the Committees on Armed Services of the Senate and House of Representatives on the fifteenth day of January, April, July, and October of each year—

[(1) the cost, number, and location of housing units constructed or acquired under this section during the three-month period covered by the report; and

[(2) the cost, number, and location of housing units that are intended to be constructed or acquired under this section during the following three-month period.

§ 2682. Facilities for defense agencies

The [construction, maintenance, rehabilitation, repair, alteration, addition, expansion, or extension] *maintenance and repair* of a real property facility for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense will be accomplished by or through a military department designated by the Secretary of Defense. A real property facility under the jurisdiction of the Department of Defense which is used by an activity or agency of the Department of Defense (other than a military department)

shall be under the jurisdiction of a military department designated by the Secretary of Defense.

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[§ 2684. Construction of family quarters; limitations on space

[(a) In the construction of family quarters for members of the Armed Forces, the following are the maximum space limitations:

Pay grade	Number of bedrooms	Net floor area (square feet)
O-7 and above	4	2,100
O-6	4	1,700
O-4 and O-5	4	1,550
	3	1,400
O-1 through O-3; W-1 through W-4; and E-7 through E-9	5	1,550
	4	1,450
	3	1,350
	2	950
E-1 through E-6	5	1,550
	4	1,350
	3	1,200
	2	950

As used in this section "net floor area" means the space inside the exterior walls, excluding: basement; service space instead of basement; attic; garage; carport; porches; and stairwells.

[(b) The maximum limitations prescribed by subsection (a) are increased by 10 per centum for quarters of the commanding officer of any station, air base, or other installation, based on the grade authorized for that position.

[(c) The maximum limitations for family quarters constructed for key and essential civilian personnel are the same as those for military personnel of comparable grade, as determined by the Secretary of Defense.

[(d) The maximum net floor area prescribed by subsection (a) may be increased up to 5 per centum if the Secretary of Defense, or his designee, determines that such increase is in the best interest of the Government to permit award of a turnkey construction project to the contractor offering the most satisfactory proposal. Any increase made under subsection (b) when combined with an increase under this subsection may not exceed an aggregate of 10 per centum.]

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[§ 2686. Leases: military family housing

[(a) The Secretaries of the military departments are authorized to lease housing facilities for assignment as public quarters to military personnel and their dependents, without rental charge, at or near any military installation in the United States, Puerto Rico, or Guam, if the Secretary of Defense, or his designee, finds that there is a lack of adequate housing at or near such military installation and that—

[(1) there has been a recent substantial increase in military strength and such increase is temporary,

[(2) the permanent military strength is to be substantially reduced in the near future,

[(3) the number of military personnel assigned is so small as to make the construction of family housing uneconomical,

[(4) family housing is required for personnel attending service school academic courses on permanent change of station orders, or

[(5) family housing has been authorized but is not yet completed or a family housing authorization request is in a pending military construction authorization bill.

[(b) Housing facilities may be leased under subsection (a) on an individual unit basis, and not more than ten thousand such units may be so leased at any one time.

[(c)(1) Except as provided in paragraph (2), expenditures for the rental of such housing facilities (including the cost of utilities, maintenance, and operation) may not exceed $515 per month for any unit.

[(2) The Secretary of Defense may lease not more than five hundred housing units under this section for which the expenditure for the rental of such facilities (including the cost of utilities, maintenance, and operation) exceeds $515 per month but does not exceed $600 per month.]

§ 2687. Base closures and realignments

(a) * * *

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(d) As used in this section:

(1) "Military installation" means [any camp, post, station, base, yard, or other facility under the authority of the Department of Defense] *a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department—*

(A) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

(B) at which not less than three hundred civilian personnel are authorized to be employed.

Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

(2) "Civilian personnel" means direct-hire permanent civilian employees of the Department of Defense.

(3) "Realignment" includes any action which both reduces and relocates functions and civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes.

[§ 2688. Use of solar energy systems in new facilities

[(a) The Secretary of Defense shall require that all new facilities (including family housing) placed under design after November 26, 1979, shall include consideration of solar energy systems in those cases in which solar energy has the potential to save fossil-fuel-derived energy. All contracts for construction resulting from such design shall include the requirement to furnish and install solar energy systems if such systems can be shown to be cost effective.

[(b) For the purposes of this section, a solar energy system shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility using ac-

cepted life cycle costing procedures. Such accepted life cycle costing procedures shall include the use of the sum of all capital, operating, and maintenance expenses associated with the energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using marginal fuel cost as determined by the Secretary of Defense and at a discount rate of seven percent per year. For the purposes of a life-cycle cost analysis under this subsection the original investment cost of a solar energy system shall be reduced by 10 percent as an investment cost credit.]

§ *2689. Development of geothermal energy on military lands*

The Secretary of a military department may develop, or authorize the development of, any geothermal energy resource within lands under the Secretary's jurisdiction, including public lands, for the use or benefit of the Department of Defense if that development is in the public interest, as determined by the Secretary concerned, and will not deter commercial development and use of other portions of such resource if offered for leasing.

§ *2690. Restriction on fuel sources for new heating systems*

(a) Except as provided in subsection (b), a new heating system that requires a heat input rate of fifty million British thermal units per hour or more and that uses oil or gas (or a derivative of oil or gas) as fuel may not be constructed on lands under the jurisdiction of a military department.

(b) The Secretary of the military department concerned may waive the provisions of subsection (a) in rare and unusual cases, but such a waiver may not become effective until after the Secretary has notified the appropriate committees of Congress in writing of the waiver.

(c) The Secretary of the military department concerned may not provide service for a new heating system in increments in order to avoid the prohibition contained in subsection (a).

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CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

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§ 2775. Liability of member for damages to family housing, equipment, and furnishings

(a) * * *

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(c) Amounts deducted from members' pay under this section shall be credited to the Department of Defense [family housing management account established under section 501 of Public Law 87–554 (76 Stat. 236; 42 U.S.C. 1594a–1)] *Military Family Housing Management Account provided for in section 2831 of this title* and shall be available for use for the same purposes and under the same circumstances as other funds in such account.

CHAPTER 169—MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

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SUBCHAPTER I—MILITARY CONSTRUCTION

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2802. Military construction projects.
2803. Emergency construction.
2804. Contingency construction.
2805. Unspecified minor construction.
2806. Contributions for North Atlantic Treaty Organization Infrastructure.
2807. Architectural and engineering services and construction design.
2808. Construction authority in the event of a declaration of war or national emergency.

§ 2801. Scope of chapter; definitions

(a) The term "military construction" as used in this chapter or any other provision of law includes any construction, development, conversion, or extension of any kind carried out with respect to a military installation.

(b) A military construction project includes all military construction work, or any contribution authorized by this chapter, necessary to produce a complete and usable facility or a complete and usable improvement to an existing facility (or to produce such portion of a complete and usable facility or improvement as is specifically authorized by law).

(c) In this chapter:

(1) "Facility" means a building, structure, or other improvement to real property.

(2) "Military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department or, in the case of an activity in a foreign country, under the operational control of the Secretary of a military department or the Secretary of Defense.

(3) "Secretary concerned" includes the Secretary of Defense with respect to matters concerning the defense agencies.

(4) "Appropriate committees of Congress" means the Committees on Armed Services and on Appropriations of the Senate and House of Representatives.

(d) This chapter does not apply to the Coast Guard or to civil works projects of the Army Corps of Engineers.

§ 2802. Military construction projects

(a) The Secretary of Defense and the Secretaries of the military departments may carry out such military construction projects as are authorized by law.

(b) Authority provided by law to carry out a military construction project includes authority for—

(1) surveys and site preparation;

(2) acquisition, conversion, rehabilitation, and installation of facilities;

(3) acquisition and installation of equipment and appurtenances integral to the project;

(4) acquisition and installation of supporting facilities (including utilities) and appurtenances incident to the project; and

(5) planning, supervision, administration, and overhead incident to the project.

§ 2803. Emergency construction

(a) Subject to subsections (b) and (c), the Secretary concerned may carry out a military construction project not otherwise authorized by law if the Secretary determines (1) that the project is vital to the national security, and (2) that the requirement for the project is so urgent that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security.

(b) When a decision is made to carry out a military construction project under this section, the Secretary concerned shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the project and the current estimate of the cost of the project, (2) the justification for carrying out the project under this section, and (3) a statement of the source of the funds to be used to carry out the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees, or after each such committee has approved the project, if the committees approve the project before the end of that period.

(c)(1) The maximum amount that the Secretary concerned may obligate in any fiscal year under this section is $30,000,000.

(2) A project carried out under this section shall be carried out within the total amount of funds appropriated for military construction that have not been obligated.

§ 2804. Contingency construction

(a) Within the amount appropriated for such purpose, the Secretary of Defense may carry out a military construction project not otherwise authorized by law, or may authorize the Secretary of a military department to carry out such a project, if the Secretary of Defense determines that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or national interest.

(b) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include (1) the justification for the

project and the current estimate of the cost of the project, and (2) the justification for carrying out the project under this section. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees, or after each such committee has approved the project, if the committees approve the project before the end of that period.

§ 2805. Unspecified minor construction

(a) Within the amount authorized by law for such purpose, the Secretary concerned may carry out minor military construction projects not otherwise authorized by law. A minor military construction project is a military construction project (1) that is for a single undertaking at a military installation, and (2) that has an approved cost equal to or less than the amount specified by law as the maximum amount for a minor military construction project.

(b)(1) A minor military construction project costing more than 50 percent of the amount specified by law as the maximum amount for a minor military construction project may not be carried out under this section unless approved in advance by the Secretary concerned.

(2) When a decision is made to carry out a minor military construction project to which paragraph (1) is applicable, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only (A) after the end of the 21-day period beginning on the date the notification is received by the committees, or (B) after each such committee approves the project, if the committees approve the project before the end of that period.

(3) A project for the relocation of any activity from one installation to another that involves 25 or more full-time civilian employees of the Department of Defense but that is not subject to paragraph (1) may not be carried out under the authority of this section until the appropriate committees of Congress have been notified by the Secretary concerned of the intent to carry out such relocation under the authority of this section.

(c) Only funds authorized for minor construction projects may be used to accomplish unspecified minor construction projects, except that the Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified military construction project costing not more than 20 percent of the amount specified by law as the maximum amount for a minor military construction project.

(d) Military family housing projects for construction of new housing units may not be carried out under the authority of this section.

§ 2806. Contributions for North Atlantic Treaty Organization infrastructure

(a) Within amounts authorized by law for such purpose, the Secretary of Defense may make contributions for the United States share of the cost of multilateral programs for the acquisition and construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area.

(b) Funds may not be obligated or expended in connection with the North Atlantic Treaty Organization Infrastructure program in any year unless such funds have been authorized by law for such program.

(c)(1) The Secretary may make contributions in excess of the amount appropriated for contribution under subsection (a) if the amount of the contribution in excess of that amount does not exceed 200 percent of the amount specified by law as the maximum amount for a minor military construction project.

(2) If the Secretary determines that the amount appropriated for contribution under subsection (a) in any fiscal year must be exceeded by more than the amount authorized under paragraph (1), the Secretary may make contributions in excess of such amount, but not in excess of 125 percent of the amount appropriated (A) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of the funds to be used for the increase, and (B) after either a period of 21 days has elapsed from the date of receipt of the report or after each such committee has indicated approval of the increased contribution.

§ 2807. Architectural and engineering services and construction design

(a) Within amounts appropriated for such purposes, the Secretary concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects not otherwise authorized by law. Amounts available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the armed forces of the United States are the primary user.

(b) In the case of architectural and engineering services and construction design to be undertaken under subsection (a) for which the estimated cost exceeds the maximum amount specified by law for the purposes of this section, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the proposed project and the estimated cost of such services not less than 21 days before the initial obligation of funds for such services.

(c) If the Secretary concerned determines that the amount authorized for activities under subsection (a) in any fiscal year must be increased the Secretary may proceed with activities at such higher level (1) after submitting a report in writing to the appropriate committees of Congress on such increase, including a statement of the reasons for the increase and a statement of the source of funds to be used for the increase, and (2) after either a period of 21 days has elapsed from the date of receipt of the report or after each such committee has indicated approval of the increased level of activity.

§ 2808. Construction authority in the event of a declaration of war or national emergency

(a) In the event of a declaration of war or the declaration by the President of a national emergency in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.) that requires use of the armed forces, the Secretary of Defense, without regard to any other

provision of law, may undertake military construction projects, and may authorize the Secretaries of the military departments to undertake military construction projects, not otherwise authorized by law that are necessary to support such use of the armed forces. Such projects may be undertaken only within the total amount of funds that have been appropriated for military construction, including funds appropriated for family housing, that have not been obligated.

(b) When a decision is made to undertake military construction projects authorized by this section, the Secretary of Defense shall notify the appropriate committees of Congress of the decision and of the estimated cost of the construction projects, including the cost of any real estate action pertaining to those construction projects.

(c) The authority described in subsection (a) shall terminate with respect to any war or national emergency at the end of the war or national emergency.

SUBCHAPTER II—MILITARY FAMILY HOUSING

Sec.

2821. Requirement for authorization of appropriations for construction and acquisition of military family housing.
2822. Requirement for authorization of number of family housing units.
2823. Determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing.
2824. Authorization for acquisition of existing family housing in lieu of construction.
2825. Improvements to family housing units.
2826. Limitations on space by pay grade.
2827. Relocation of military family housing units.
2828. Leasing of military family housing.
2829. Multiyear contracts for supplies and services.
2830. Occupancy of substandard family housing units.
2831. Military family housing management account.
2832. Homeowners assistance program.

§ 2821. Requirement for authorization of appropriations for construction and acquisition of military family housing

(a) Except as provided in subsection (b), funds may not be appropriated for the construction, acquisition, leasing, addition, extension, expansion, alteration, relocation, or operation and maintenance of family housing under the jurisdiction of the Department of Defense unless the appropriation of such funds has been authorized by law.

(b) In addition to the funds authorized to be appropriated by law in any fiscal year for the purposes described in subsection (a), there are authorized to be appropriated such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds appropriated for the purposes described in such paragraph.

(c) Amounts authorized by law for construction of military family housing units include amounts for (1) site preparation (including demolition), (2) installation of utilities, (3) ancillary supporting facilities, (4) shades, screens, ranges, refrigerators, and all other equipment and fixtures installed in such units, and (5) construction supervision, inspection, and overhead.

§ 2822. Requirement for authorization of number of family housing units

(a) Except as otherwise provided in subsection (b) or as otherwise authorized by law, the Secretary concerned may not construct or acquire military family housing units unless the number of units to be constructed or acquired has been specifically authorized by law.

(b) Subsection (a) does not apply to the following:

(1) Housing units acquired under section 404 of the Housing Amendments of 1955 (42 U.S.C. 1594a).

(2) Housing units leased under section 2828 of this title.

(3) Housing units acquired under the Homeowners Assistance Program referred to in section 2833 of this title.

§ 2823. Determination of availability of suitable alternative housing for acquisition in lieu of construction of new family housing

(a) Before entering into a contract for the construction of family housing units authorized by law to be constructed at a location within the United States, the Secretary concerned shall consult in writing with the Secretary of Housing and Urban Development as to the availability of suitable alternative housing at such location. The Secretary of Housing and Urban Development shall advise the Secretary concerned in writing as to the availability of such housing. If the Secretary of Housing and Urban Development does not advise the Secretary concerned as to the availability of such housing within 21 days of the date on which the request for such advice is made, the Secretary concerned may enter into a contract for the proposed construction.

(b) If the Secretary concerned and the Secretary of Housing and Urban Development disagree with respect to the availability of suitable alternative housing at any location, the Secretary concerned shall notify the appropriate committees of Congress, in writing, of the disagreement, of the Secretary's decision to proceed with the construction, and of the justification for proceeding with the construction. A contract for construction of family housing units at such location may not then be entered into until the end of the 21-day period beginning on the date such committees receive the notification.

(c) If the Secretary concerned and the Secretary of Housing and Urban Development agree that suitable alternative housing is available at a location at which military family housing units are authorized to be constructed, the Secretary may not proceed with such construction.

(d) The Secretary of Defense shall prescribe regulations to define what constitutes suitable alternative housing for the purposes of this section.

§ 2824. Authorization for acquisition of existing family housing in lieu of construction

(a) In lieu of constructing any family housing units authorized by law to be constructed, the Secretary concerned may acquire sole interest in existing family housing units that are privately owned or that are held by the Department of Housing and Urban Develop-

ment, except that in foreign countries the Secretary concerned may acquire less than sole interest in existing family housing units.

(b) When authority provided by law to construct military family housing units is used to acquire existing family housing units under subsection (a), the authority includes authority to acquire interests in land.

(c) The net floor area of a family housing unit acquired under the authority of this section may not exceed the applicable limitation specified in section 2826 of this title.

(d) Family housing units may not be acquired under this section through the exercise of eminent domain authority.

§ 2825. Improvements to family housing units

(a)(1) Authority provided by law to improve existing military family housing units and ancillary family housing support facilities is authority to make alterations, additions, expansions, and extensions.

(2) In this section, "improvement" includes rehabilitation of a housing unit and maintenance or repair work to be accomplished concurrently with an improvement project.

(b)(1) Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed an amount specified by law for such purpose multiplied by the area construction cost index as developed by the Department of Defense for the location concerned at the time of contract award.

(2) In determining the applicability of the limitation contained in paragraph (1), there shall be included as part of the cost of the improvement the cost of repairs undertaken in connection with the improvement and any cost in connection with (A) the furnishing of electricity, gas, water and sewage disposal, (B) the construction or repair of roads and walks, and (C) grading and drainage work.

(c) This section does not apply to projects authorized for restoration or replacement of housing units that have been damaged or destroyed.

§ 2826. Limitations on space by pay grade

(a) In the construction, acquisition, and improvement of military family housing units, the following are the space limitations for the applicable numbers of bedrooms permitted for each pay grade:

Pay grade	*Number of bedrooms*	*Net floor area (square feet)*
O–7 and above	*4*	*2,100*
O–6	*4*	*1,700*
O–4 and O–5	*4*	*1,550*
	3	*1,400*
O–1 through O–3; W–1 through W–4; and E–7 through E–9	*5*	*1,550*
	4	*1,450*
	3	*1,350*
	2	*950*
E–1 through E–6	*5*	*1,550*
	4	*1,350*

Pay grade	*Number of bedrooms*	*Net floor area (square feet)*
	3	*1,200*
	2	*950*

(b) The applicable maximum net floor area prescribed by subsection (a) may be increased by 10 percent for the housing unit of an officer holding a special command position (as designated by the Secretary of Defense), for the housing unit of the commanding officer of a military installation, and for the senior noncommissioned officer of a military installation.

(c) The maximum net floor area prescribed by subsection (a) may be increased in any case by 5 percent if the Secretary concerned determines that the increase is in the best interest of the Government (1) to permit award of a turnkey construction contract to the contractor offering the most satisfactory proposal, or (2) to permit purchase, lease, or conversion of housing units. An increase in the maximum net floor area of a housing unit under subsection (b) when combined with an increase in the maximum net floor area of such unit under this subsection may not exceed 10 percent of the otherwise applicable limitation prescribed by subsection (a).

(d)(1) The Secretary concerned may waive the provisions of subsection (a) with respect to a family housing unit leased in a foreign country if a suitable family housing unit within the applicable maximum net floor area prescribed by such subsection cannot be obtained.

(2) Subsection (a) does not apply to family housing units in foreign countries constructed or acquired by the Secretary of State for occupancy by members of the armed forces.

(e) The maximum net floor areas prescribed by this section apply to family housing provided to civilian personnel based upon civilian pay scale comparability with military pay grades, as determined by the Secretary of Defense.

(f) In this section, "net floor area" means the total number of square feet of the floor space inside the exterior walls of a structure, excluding the floor area of an unfinished basement, an unfinished attic, a utility space, a garage, a carport, an open or insect-screened porch, a stairwell, and any space used for a solar-energy system.

§ 2827. Relocation of military family housing units

(a) Subject to subsection (b), the Secretary concerned may relocate existing military family housing units from any location where the number of such units exceeds requirements for military family housing to any military installation where there is a housing shortage.

(b) A contract to carry out a relocation of military family housing units under subsection (a) may not be awarded until (1) the Secretary concerned has notified the appropriate committees of Congress of the proposed new locations of the housing units to be relocated and the estimated cost of and source of funds for the relocation, and (2) a period of 21 days has elapsed after the notification has been received by those committees.

§ 2828. Leasing of military family housing

(a)(1) Subject to paragraph (2), the Secretary of the military department concerned may lease housing facilities at or near a military installation in the United States, Puerto Rico, or Guam for assignment, without rental charge, as family housing to members of the Armed Forces and for assignment, with fair market rental charge, as family housing to civilian employees of the Department of Defense stationed at such installation.

(2) A lease may only be made under paragraph (1) if the Secretary concerned finds that there is a shortage of adequate housing at or near such military installation and that—

(A) the requirement for such housing is temporary;

(B) leasing would be more cost effective than construction or acquisition of new housing;

(C) family housing is required for personnel attending service school academic courses on permanent change of station orders;

(D) construction of family housing at such installation has been authorized by law but is not yet completed; or

(E) a military construction authorization bill pending in Congress includes a request for authorization of construction of family housing at such installation.

(b)(1) Not more than 10,000 family housing units may be leased at any one time under subsection (a).

(2) Except as provided in paragraph (3), expenditures for the rental of housing units under subsection (a) (including the cost of utilities, maintenance, and operation) may not exceed the amount specified by law as the maximum annual domestic family housing unit lease amount.

(3) Not more than 500 housing units may be leased under subsection (a) for which the expenditure for the rental of such units (including the cost of utilities, maintenance, and operation) exceeds the maximum annual domestic family housing unit lease amount but does not exceed 120 percent of that amount.

(c) The Secretary concerned may lease housing facilities in foreign countries for assignment, without rental charge, as family housing to members of the Armed Forces and for assignment, with or without rental charge, as family housing to civilian employees of the Department of Defense—

(1) under circumstances specified in clause (A), (B), (D), or (E) of subsection (a)(2);

(2) for incumbents of special command positions (as determined by the Secretary of Defense);

(3) in countries where excessive costs of housing or other lease terms would cause undue hardship on Department of Defense personnel; and

(4) in countries that prohibit leases by individual military or civilian personnel of the United States.

(d) Leases of housing units in foreign countries under subsection (c) for assignment as family housing may be for any period not in excess of ten years, and the costs of such leases for any year may be paid out of annual appropriations for that year.

(e)(1) Expenditures for the rental of family housing in foreign countries (including the costs of utilities, maintenance, and oper-

ation) may not exceed the amount specified by law as the maximum annual foreign family housing unit lease amount. That maximum lease amount may be waived by Secretary concerned with respect to not more than a total of 200 such units that are leased for incumbents of special positions or for personnel assigned to Defense Attache Offices or that are leased in countries where excessive costs of housing would cause undue hardship on Department of Defense personnel.

(2) The maximum number of family housing units that may be leased in foreign countries under this section at any one time shall be specified by law.

(f) A lease for family housing facilities, or for real property related to family housing facilities, in a foreign country for which the average estimated annual rental during the term of the lease exceeds the amount specified by law for such purpose may not be made under this section until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed lease, and (2) a period of 21 days elapses after the notification is received by those committees.

§ 2829. Multiyear contracts for supplies and services

The Secretary concerned may make contracts for periods of up to four years for supplies and services for the management, maintenance, and operation of military family housing and may pay the costs of such contracts for each year out of annual appropriations for that year.

§ 2830. Occupancy of substandard family housing units

(a)(1) A member of the uniformed services with dependents may, without loss of the member's basic allowance for quarters, occupy a substandard family housing unit under the jurisdiction of the Secretary of a military department.

(2) Occupancy of a family housing unit under paragraph (1) shall be subject to a charge against the member's basic allowance for quarters in the amount of the fair rental value of the housing unit. However, such a charge may not be made in an amount in excess of 75 percent of the amount of such allowance.

(b) Subject to regulations prescribed by the Secretary of Defense, the Secretary of a military department may lease substandard family housing units to members of any of the uniformed services for occupancy by such members.

(c) In this section, "uniformed services" means the armed forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

§ 2831. Military family housing management account

(a) There is on the books of the Treasury an account known as the Department of Defense Military Family Housing Management Account (hereinafter in this section referred to as the "account"). The account shall be used for the management and administration of funds appropriated or otherwise made available to the Department of Defense for military family housing programs.

(b) The account shall be administered as a single account. There shall be transferred into the account—

(1) appropriations made for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, leasing, relocation, operation and maintenance, and disposal of military family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 222(c) of the National Housing Act (12 U.S.C. 1715m(c));

(2) proceeds from the rental of family housing and mobile home facilities under the control of a military department, reimbursements from the occupants of such facilities for services rendered (including utility costs), funds obtained from individuals as a result of losses, damages, or destruction to such facilities caused by the abuse or negligence of such individuals, and reimbursements from other Government agencies for expenditures from the account; and

(3) proceeds of the handling and the disposal of family housing of a military department (including related land and improvements), whether carried out by a military department or any other Federal agency, but less those expenses payable pursuant to section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)).

(c) Amounts in the account shall remain available until spent.

(d) The Secretary concerned may make obligations against the account, in such amounts as may be specified from time to time in appropriation Acts, for the purpose of defraying, in the manner and to the extent authorized by law, the costs referred to in subsection (b).

§ 2832. Homeowners assistance program

The Secretary of Defense may exercise the authority provided in section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

SUBCHAPTER III—ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Sec.

2851. Supervision of military construction projects.
2852. Military construction projects: waiver of certain restrictions.
2853. Authorized cost variations.
2854. Restoration or replacement of damaged or destroyed facilities.
2855. Law applicable to contracts for architectural and engineering services and construction design.
2856. Limitations on barracks space by pay grade.
2857. Use of solar energy systems.
2858. Limitation on the use of funds for expediting a construction project.
2859. Transmission of annual military construction authorization request.
2860. Availability of appropriations for five years.
2861. Annual report to Congress.

§ 2851. Supervision of military construction projects

(a) Each contract entered into by the United States in connection with a military construction project or a military family housing project shall be carried out under the direction and supervision of the Secretary of the Army (acting through the Chief of Engineers), the Secretary of the Navy (acting through the Commander of the Naval Facilities Engineering Command), or such other department

or Government agency as the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective completion of the project.

(b) A military construction project for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense shall be accomplished by or through a military department designated by the Secretary of Defense.

§ 2852. Military construction projects: waiver of certain restrictions

(a) The Secretary of Defense and the Secretaries of the military departments may carry out authorized military construction projects and authorized military family housing projects without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

(b) Authority to carry out a military construction project or a military family housing project on land not owned by the United States may be exercised (1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and (2) even though the land is held temporarily.

§ 2853. Authorized cost variations

(a)(1) Except as provided in paragraph (2), the cost authorized for a military construction project (other than a project for which the approved amount is less than the amount specified by law as the maximum amount for a minor military construction project) may be increased by not more than 25 percent of the amount appropriated for the project by Congress or 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser, if the Secretary concerned determines (A) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (B) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress.

(2) A military construction project (other than a project for which the approved amount is less than the amount specified by law as the maximum amount for a minor military construction project) may not be placed under contract if, based upon bids received—

(A) the scope of work for the project, as approved by Congress, is proposed to be reduced by more than 25 percent; or

(B) the current working estimate of the cost of the project exceeds the amount appropriated for the project by more than (i) 25 percent, or (ii) 200 percent of the amount specified by law as the maximum amount for a minor military construction project, whichever is lesser,

until subsection (d) is complied with.

(b) If the amount approved for a project is less than the amount specified by law as the maximum amount for a minor military construction project, that approved amount may be increased to more than such maximum amount if the Secretary concerned determines (1) that such an increase is required for the sole purpose of meeting unusual variations in cost, and (2) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved. However, if, based upon bids received, the

current working estimate of the cost of such a project is more than such maximum amount and is more than 125 percent of the original approved amount for the project, the project may not be placed under contract until subsection (d) is complied with.

(c) The amount authorized by law for the cost of authorized construction and acquisition of a military family housing project may be increased above the amount appropriated for such project if the Secretary determines (1) that the increase is required for the sole purpose of meeting unforeseen variations in cost, and (2) that such variations in cost could not have been reasonably anticipated at the time the project was originally approved by Congress. However, such amount may not be increased by more than 25 percent until subsection (d) is complied with.

(d)(1) The limitation on reduction in scope of work in subsection (a), and the limitations on cost increases in subsections (a), (b), and (c), do not apply if—

(A) the reduction in scope of work or the increase in cost, as the case may be, is approved by the Secretary concerned;

(B) a written notification of the facts relating to the proposed reduced scope of work or increased cost (including a statement of the reasons therefor) is submitted by the Secretary concerned to the appropriate committees of Congress; and

(C) each of the appropriate committees of Congress approves the proposed reduced scope of work or increased cost.

(2) If during the 21-day period beginning on the date a committee receives the notification referred to in paragraph (1)(B) the committee fails to indicate disapproval of the reduced scope of work or increased cost and fails to indicate that it intends to hold a hearing thereon, at the end of that period that committee shall be deemed for the purpose of paragraph (1)(C) to have approved the reduced scope of work or increased cost. If during such 21-day period any such committee indicates that it intends to hold a hearing on the proposed reduced scope of work or increased cost, the Secretary concerned may not proceed with the project until he receives approval from that committee.

(e) After a contract for a project has been entered into, the Secretary concerned may carry out such project in an amount above the amount appropriated for such project by Congress in order to meet the costs of change orders or contractor claims. In the case of a contract to be carried out above the amount approprated for which there has not been a cost variation under subsection (a), (b), (c), or (d), the Secretary concerned shall promptly report to the appropriate committees of Congress on the revised cost for the project and the reasons for the revised cost if the total cost under the contract exceeds the amount appropriated for the project by more than 25 percent. In the case of a contract to be carried out above the amount appropriated for which there has been a cost variation under subsection (a), (b), (c), or (d), the Secretary concerned shall promptly report to the appropriate committees of Congress on the revised cost for the project and the reasons for the revised cost, regardless of the amount be which the revised cost exceeds the amount approved for the project by the modification under subsection (a), (b), (c), or (d).

§ 2854. Restoration or replacement of damaged or destroyed facilities

(a) Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction, including a family housing facility, that has been damaged or destroyed.

(b) When a decision is made to carry out construction under this section and the cost of the repair, restoration, or replacement is greater than the maximum amount for a minor construction project, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, of the current estimate of the cost of the project, of the source of funds for the project, and of the justification for carrying out the project under this section. The project may then be carried out only (1) after the end of the 21-day period beginning on the date the notification is received by such committees, or (2) after each such committee has approved the project, if the committees approve the project before the end of that period.

§ 2855. Law applicable to contracts for architectural and engineering services and construction design

Contracts for architectural and engineering services and construction design in connection with a military construction project or a military family housing project shall be awarded in accordance with title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.).

§ 2856. Limitations on barracks space by pay grade

(a) The Secretary of Defense shall prescribe regulations establishing the maximum allowable net square feet per occupant for new permanent barracks construction. Such regulations shall be uniform for the armed forces under the jurisdiction of the Secretary of a military department.

(b) Before taking effect, any regulations under this section, and any modifications to such regulations, shall be submitted to the appropriate committees of Congress. Such regulations (including any modifications to such regulations) may not then take effect until 21 days after being received by such committees.

§ 2857. Use of solar energy systems

(a) The Secretary of Defense shall encourage the use of solar energy systems as a source of energy for military construction projects (including military family housing projects) where use of solar energy would be practical and economically feasible.

(b)(1) The Secretary concerned shall require that the design of all new facilities (including family housing) shall include consideration of solar energy systems in those cases in which use of solar energy has the potential for significant savings of fossil-fuel-derived energy.

(2) The Secretary concerned shall require that contracts for construction resulting from such design include a requirement that solar energy systems be installed if such systems can be shown to be cost effective.

(c)(1) For the purposes of this section, a solar energy system for a facility shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system for the facility with a solar energy system, and (B) the original investment cost of the energy system for the facility without a solar energy system can be recovered over the expected life of the facility.

(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a facility shall be made using accepted life-cycle costing procedures and shall include—

(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system with and without a solar energy system over the expected life of the facility or during a period of 25 years, whichever is shorter;

(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the solar energy system shall be reduced by 10 percent to reflect an allowance for an investment cost credit.

(d) In order to equip a military construction project (including a military family housing project) with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, or with a passive solar energy system, the Secretary concerned may authorize an increase in any otherwise applicable limitation with respect to the number of square feet or the cost per square foot of the project by such amount as may be necessary for such purpose. Any such increase under this subsection shall be in addition to any other administrative increase in cost per square foot or variation in floor area authorized by law.

§ 2858. Limitation on the use of funds for expediting a construction project

Funds appropriated for military construction (including military family housing) may not be expended for additional costs involved in expediting a construction project unless the Secretary concerned (1) certifies that expenditures for such costs are necessary to protect the national interest, and (2) establishes a reasonable completion date for the project. In establishing such a completion date, the Secretary shall take into consideration the urgency of the requirement for completion of the project, the type and location of the project, the climatic and seasonal conditions affecting the construction involved, and the application of economical construction practices.

§ 2859. Transmission of annual military construction authorization request

The Secretary of Defense shall transmit to Congress the annual request for military construction authorization for a fiscal year during the first 10 days after the President transmits to Congress the Budget for that fiscal year pursuant to section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11).

§ 2860. Availability of appropriations for five years

(a) Subject to the provisions of appropriation Acts and except as otherwise provided under subsection (b), any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

(b) Should a requirement develop to obligate funds for a military construction project after the end of the fourth fiscal year after the fiscal year for which such funds were appropriated, such obligation may be made after the end of the 21-day period beginning on the date on which the appropriate committees of Congress receive notification of the need for such obligation and the reasons therefor.

§ 2861. Annual report to Congress

(a) The Secretary of Defense shall submit a report to the appropriate committees of Congress each year with respect to military construction activities and military family housing activities. Each such report shall be submitted at the same time that the annual request for military construction authorization is submitted for that year. Except where otherwise provided in this section, information required by this section to be provided in the report shall be provided for the two most recent fiscal years and for the fiscal year for which the budget request is made.

(b) Each report under subsection (a) shall include the following:

(1) A statement of the construction status and a fiscal summary of the military construction projects undertaken under, and the amounts authorized and appropriated for, contingency construction under section 2804 of this title.

(2) Information to enable the committees to evaluate the relationships between budget requests for appropriations for unspecified minor construction projects under section 2805 of this title and obligations of appropriated funds for projects under such section. Such information shall include comparisons of budget requests and obligations using military construction appropriations and using operations and maintenance appropriations, maintenance and repair backlog, and obligations for maintenance and repair.

(3) Information to enable the committees to monitor trends in construction started using funds contributed by the United States under section 2806 of this title to the North Atlantic Treaty Organization Infrastructure program and the status of recoupments under that program.

(4) Information to enable the committees to evaluate trends in contracting for architect and engineering services and construction design, and trends in accomplishing design of construction projects by Government employees, under the authority of section 2807 of this title.

(5) Information to enable the committees to evaluate trends in supervision, inspection, and overhead costs for the dollar amount of military construction accomplished during a fiscal year by a military construction department or agency under the authority of section 2851 of this title.

(6) A summary of military construction projects (other than a military construction project for an amount less than the amount specified by law as the maximum amount for a minor military construction project) placed under contract during the preceding fiscal year with respect to which a cost variation or scope reduction report was supplied to the appropriate committees of Congress under section 2853 of this title. There shall also be included an analysis to indicate whether the cost variation was the result of a lack of competition, quality of plans and specifications, or quality of budget estimates, or of other factors.

(7) Information to enable the committees to evaluate the use of the authority provided under section 2858 to expedite a military construction project when such expediting is required to protect the national interest.

(8) Information in sufficient detail to enable the committees to monitor trends in design, construction, performance goals, and progress.

(9) With respect to each contract awarded during the preceding fiscal year on other than a competitive basis to the lowest responsible bidder, the name of the contractor, the original amount of the contract, and the reason for the award of the contract on other than a competitive basis.

Subtitle B—Army

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 449—REAL PROPERTY

Sec.
4771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
4772. Reservation and use for air base or testing field.
[4774. Construction: limitations.]

* * * * * * *

[§ 4774. Construction: limitations

[Except when built by members of the Army, no permanent barrack quarters, building, or other permanent structure may be built unless a detailed estimate of its cost has been submitted to Congress and a specific appropriation has been made therefor. No one may build such a structure without specific authority of Congress if the cost is more than $100,000.]

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Subtitle D—Air Force

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PART IV—SERVICE, SUPPLY, AND PROCUREMENT

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CHAPTER 949—REAL PROPERTY

Sec.
9771. Acceptance of donations: land for mobilization, training, supply base, or aviation field.
9773. Acquisition and construction: air bases and depots.
[9774. Construction: limitations.]

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[§ 9774. Construction: limitations

[Except when built by members of the Air Force, no permanent barracks, quarters, building, or other permanent structure may be built unless a detailed estimate of its cost has been submitted to Congress and a specific appropriation has been made therefor. No one may build such a structure without specific authority of Congress if the cost is more than $100,000.]

* * * * * * *

SECTION 504 OF THE ACT OF SEPTEMBER 28, 1951

(31 U.S.C. 723)

AN ACT To authorize certain construction at military and naval installations, and for other purposes.

[SEC. 504. There are hereby authorized to be appropriated without fiscal year limitation, funds for advance planning, construction design, and architectural services in connection with (1) public works projects which are not otherwise authorized by law, and (2) construction management of those projects funded by foreign governments directly or through international organizations for which United States forces are the sole or primary user.]

SECTIONS 103 AND 406(a) OF THE ACT OF AUGUST 30, 1957

(42 U.S.C. 1594h and 1594i)

AN ACT To authorize certain construction at military installations, and for other purposes.

[SEC. 103. The Secretary of the Army is authorized to purchase out of appropriations available for military construction family housing including necessary land at, or near, military tactical installations for assignment as public quarters to military personnel and their dependents. Not more than 300 units of such housing may be purchased under this section. Space limitations per unit will be in accordance with subsections (a), (b), and (c) of section 4774 of title 10, United States Code, and cost limitations as now or hereafter established for military housing constructed with appropriated funds.]

* * * * * * *

SEC. 406. [(a) Notwithstanding the provisions of any other law, and effective July 1, 1958, no family housing units shall be contracted for or acquired at or in support of military installations or activities, and no certificates with respect to any family housing units shall be issued by the Secretary of Defense or his designee or by any of the military departments in connection with section 810 of the National Housing Act, as amended, unless the actual number of units involved has been specifically authorized by an annual military construction authorization Act except (1) housing units acquired pursuant to the provisions of section 404 of the Housing Amendments of 1955; (2) rental guarantee family housing authorized under section 302 of the Act of July 14, 1952 (66 Stat. 606, 622): *Provided*, That not more than five thousand units shall be contracted for under the authority of such section prior to June 30, 1964; and (3) housing units leased for terms of one year, whether renewable or not, or for terms of not more than five years pursuant to the provisions of section 2675 of title 10, United States Code.]

* * * * * * *

Section 420 of the Military Construction Act of 1959, Public Law 86–149

(7 U.S.C. 1704b)

[Sec. 420. In carrying out in a foreign country any project authorized by this Act or any other Military Construction Act heretofore or hereafter enacted, currencies of such country acquired pursuant to the provisions of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480, Eighty-third Congress) shall, to the extent available and feasible, be used in lieu of dollars. The Department of Defense shall reimburse the Commodity Credit Corporation for any foreign currencies so utilized in carrying out such projects.]

Sections 501, 503, and 507 of the Act of July 27, 1962, Public Law 87–554

(42 U.S.C. 1594a–1, 1594h–1, and 1594a–2)

[Sec. 501. (a) For the purpose of providing improved management and administration of funds appropriated or otherwise made available to the Department of Defense for family housing programs there is hereby established on the books of the Treasury Department the Department of Defense family housing management account (hereinafter referred to as the "management account").

[(b) The management account shall be administered by the Secretary of Defense as a single account. There shall be transferred into such account (1) appropriations made to the Department of Defense for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, leasing, relocation, operating and maintenance, and disposal of family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 222(c) of the National Housing Act (12 U.S.C. 1715m(c)), (2) proceeds from the rental of family housing and mobile home facilities under the control of the Department of Defense, reimbursements from occupants of such facilities for services rendered (including utility costs), funds obtained from individuals as a result of losses, damages, or destruction to such facilities caused by the abuse or negligence of such individuals, and reimbursements from other Government agencies for expenditures from the management account, and (3) notwithstanding any other provision of law, proceeds of the handling and the disposal of family housing of the Department of Defense, including related land and improvements, whether effected by the Department of Defense or any other Federal agency, but less those expenses payable pursuant to section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)), to remain available until expended.

[(c) Obligations against the management account may be made by the Secretary of Defense, in such amounts as may be specified from time to time in appropriation Acts, for the purpose of defraying, in

the manner and to the extent authorized by law, the costs referred to in subsection (b).

[(d) The last sentence of subsection (f) and subsections (g) and (h) of section 404 of the Housing Amendments of 1955 (42 U.S.C. 1594a (g) and (h) are hereby repealed.]

* * * * * * *

[SEC. 503. (a) The Secretary of Defense, or his designee, is authorized to accomplish alterations, additions, expansions, or extensions not otherwise authorized by law of family housing units at various locations under the jurisdiction of the Department of Defense which, on the effective date of this Act, have not been designated as public quarters. Units so improved shall be designated public quarters.

[(b) No family housing unit may be improved at a total cost of more than 50 per centum of the maximum cost of construction prescribed by this Act for an equivalent unit of new family housing.]

* * * * * * *

[SEC. 507. No funds may be appropriated after December 31, 1962, for the construction, acquisition, leasing, addition, extension, expansion, alteration, or operation and maintenance of family housing under the jurisdiction of the Department of Defense unless the appropriation of such funds has been authorized by legislation enacted after such date.]

SECTION 507 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1964, PUBLIC LAWS 88–174

(42 U.S.C. 1594k)

[SEC. 507. For the purpose of providing military family housing in foreign countries, the Secretary of Defense is authorized to enter into agreements guaranteeing the builders or other sponsors of such housing a rental return equivalent to a specified portion of the annual rental income which the builders or other sponsors would receive from the tenants if the housing were fully occupied: *Provided*, That the aggregate amount guaranteed under such agreements entered into during the fiscal years 1974 and 1975 shall not exceed such amount as may be applicable to five thousand units: *Provided further*, That no such agreement shall guarantee the payment of more than 97 per centum of the anticipated rentals, nor shall any guarantee extend for a period of more than ten years, nor shall the average guaranteed rental on any project exceed $275 per unit per month, including the cost of maintenance and operation.]

SECTIONS 610 AND 611 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1966, PUBLIC LAW 89–188

(10 U.S.C. 1077nt.; 10 U.S.C. 2662nt.)

[SEC. 610. Except in the case of hospitals authorized for construction under this or any previous Act, any military hospital hereafter constructed in the United States or its possessions shall include facilities

for obstetrical care unless sound and specific justification is made by the Secretary concerned for omitting such facilities in any hospital authorized.

[SEC. 611. (a) No camp, post, station, base, yard, or other installation under the authority of the Department of Defense shall be closed or abandoned until the expiration of thirty days of continuous session of the Congress following the date on which the Secretary of Defense or the Secretary of a military department makes a full report of the facts including the justification for such proposed action to the Congress.

[(b) For the purposes of subparagraph (a) continuity of session shall be considered as broken only by an adjournment of the Congress sine die; but in the computation of the thirty-day period there shall be excluded the days on which either House is not in session because of an adjournment of more than three days to a day certain.

[(c) This section shall apply only to posts, camps, stations, bases, yards, or other installations that are located in the United States and Puerto Rico and have a total military and civilian complement of more than two hundred and fifty. It shall not apply to any facility used primarily for river and harbor projects or flood control projects.]

SECTIONS 610 AND 612 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1967, PUBLIC LAW 89–568

(50 U.S.C. App. 2287; 31 U.S.C. 723a)

[SEC. 610. (a) On and after the date of enactment of this Act all construction authorized in annual military construction authorization Acts shall be designed using techniques developed by the Office of Civil Defense to maximize fallout protection, where such can be done without impairing the purpose for which the construction is authorized or the effectiveness of the structure, unless exempted from this requirement under regulations prescribed by the Secretary of Defense or his designee.

[(b) The Secretary of Defense shall make appropriate provision for the utilization of technical design and construction methods in the preparation of design and construction plans and in construction under this Act or hereafter authorized to assure carrying out the purposes of this section; and for such purposes expenditures on individual projects shall not exceed one per centum of the amount authorized for that project: *Provided, however*, That this authorization may be averaged and applied to a single facility of two or more facilities, or among projects on an installation, when such application will result in more fallout shelter space, or is needed to meet minimum fallout projection standards in such facilities or projects.]

* * * * * * *

[SEC. 612. In the case of any public works project for which advance planning, construction design and architectural services are estimated to cost $250,000 or more, which are to be funded from moneys hereafter appropriated for such purposes pursuant to authority of section 723 of title 31, U.S.C., the Secretary of Defense shall describe the

project and report the estimated cost of such services not less than 30 days prior to initial obligation of funds therefor to the Committees on Armed Services of the Senate and House of Representatives.]

SECTION 610(a) OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1968, PUBLIC LAW 90–110

(42 U.S.C. 1594h–2)

SEC. 610. [(a) None of the funds authorized by this or any other Act may be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units when such units are to be converted into or used as a single family housing unit, if the total cost of such improvements exceeds $20,000, adjusted by the area construction cost index (as developed by the Department of Defense) for the location at the time of contract award. The total cost of any such improvement shall include all repair costs undertaken as part of the improvement project and all costs in connection with (1) the furnishing of electricity, gas, water, and sewage disposal, (2) the construction or repair of roads and walks, and (3) any grading and drainage work. As used in this section the term "improvement" includes alteration, expansion, extension, or rehabilitation of any housing unit or units, including that maintenance and repair which is to be accomplished concurrently with an improvement project. The provision of this section shall not apply to projects authorized for restoration or replacement of housing units damaged or destroyed.]

* * * * * * *

SECTION 807 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1969, PUBLIC LAW 90–408

[SEC. 807. None of the funds authorized by this Act or by any military construction authorization Act hereafter enacted shall be expended for the construction of any waste treatment or waste disposal system at or in connection with any military installation until after the Secretary of Defense or his designee has consulted with the Federal Water Pollution Control Administration of the Department of the Interior and determined that the degree and type of waste disposal and treatment required in the area in which such military installation is located are consistent with applicable Federal or State water quality standards or other requirements and that the planned system will be coordinated in timing with a State, county, or municipal program which requires communities to take such related abatement measures as are necessary to achieve areawide water pollution cleanup.]

SECTION 512 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1970, PUBLIC LAW 91–142

[SEC. 512. Notwithstanding any other provision of law limiting the term of a contract, the Secretary of Defense, or his designee, may

enter into contracts for periods of not more than 4 years for supplies and services required for the maintenance and operation of family housing for which funds would otherwise be available only within the fiscal year for which appropriated.]

SECTION 508 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1971, PUBLIC LAW 91–511

[SEC. 508. The Secretary of Defense, or his designee, is authorized to relocate family housing units from locations where they exceed requirements to military installations where there are housing shortages: *Provided*, That the Secretary of Defense shall notify the Committees on Armed Services of the House of Representatives and the Senate of the proposed new locations and estimated costs, and no contract shall be awarded within sixty days of such notification.]

SECTION 508 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1973, PUBLIC LAW 92–545

(42 U.S.C. 1594j–1)

[SEC. 508. (a) Notwithstanding the provisions of any other law, members of the uniformed services (as defined in section 101(3) of title 37, United States Code), with dependents, may occupy on a rental basis, without loss of basic allowance for quarters, inadequate quarters under the jurisdiction of a military department notwithstanding that such quarters may have been constructed or converted for assignment as public quarters, subject to a charge against their basic allowance for quarters in the amount of the fair rental value of the housing facility: *Provided*, That notwithstanding the fair rental value of such family housing facility, no charge for occupancy thereof shall be made against the basic allowance for quarters of the occupant in excess of 75 per centum of such allowance, except that in no event shall the total charge to the occupants' basic allowance for quarters for such housing at any installation be less than the cost of maintenance and operation thereof. The net difference between the basic allowance for quarters and the occupancy charge shall be paid to the occupant from otherwise available appropriations.

[(b) The Secretaries of the Military Departments are each authorized, subject to regulations approved by the Secretary of Defense—

[(1) to designate as rental housing such housing as he may determine to be inadequate as public quarters; and

[(2) to lease inadequate housing to personnel of any of the mentioned services for occupancy by them and their dependents.

In no event shall more than a total of 20,000 housing units be determined inadequate as public quarters under authority of this section.

[(c) On the effective date of this section, section 407 of Public Law 85–241 (71 Stat. 556), as amended (42 U.S.C. 1594j), is repealed.]

SECTIONS 509 AND 612 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1975, PUBLIC LAW 93–552

[SEC. 509. None of the funds authorized to be appropriated by this or any other Act may be used for the purpose of installing air-conditioning equipment in any new or existing military family housing unit in the State of Hawaii.]

* * * * * * *

[SEC. 612. Notwithstanding any other provisions of law, proceeds from the sale of recyclable material shall be credited first, to the cost of collection, handling, and sale of the material including purchasing of equipment to be used for recycling purposes and second, to projects for environmental improvement and energy conservation at military camps, posts, and base establishing recycling programs in accordance with regulations approved by the Secretary of Defense. The amount expended for environmental improvement and energy conservation projects shall not exceed $50,000 per installation per annum. Any balance shall be returned to the Treasury as miscellaneous receipts. The Secretary of each military department shall make an annual report to Congress on the operation of the program.]

SECTION 613 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1978, PUBLIC LAW 95–82

[AUTHORITY FOR LONG TERM CONTRACT REFUSE-DERIVED FUEL

[SEC. 613. The Secretary of a military department may enter into contracts for periods not to exceed ten years for the purchase of fuel derived from waste materials (commonly known as refuse-derived fuel (RDF)). Such contracts may provide for the collection and disposal of solid waste from Department of Defense installations and for the delivery to Department of Defense installations of refuse-derived fuel which, by weight, exceeds that installation's generation of solid waste. Funds for such contracts shall be provided from annual appropriations for operation and maintenance.]

SECTION 803 OF THE MILITARY CONSTRUCTION AUTHORIZATION ACT, 1979, PUBLIC LAW 95–356

(30 U.S.C. 1002a)

[DEVELOPMENT OF SOURCES OF ENERGY ON OR FOR MILITARY INSTALLATIONS

[SEC. 803. (a) The Secretary of each military department may develop for the use or benefit of the Department of Defense any geothermal energy resource within lands under his jurisdiction, including public lands, if such development is in the public interest, as determined by the Secretary of the military department concerned, and

will not deter commercial development and use of other portions of such resource if offered for leasing.

[(b) (1) If the Secretary of a military department determines that it is in the interest of the Government to do so, he may contract, for a period not to exceed thirty years, for the provision and operation of energy production facilities on real property under his jurisdiction or on private property and for the purchase of energy produced from such facilities, except that no such contract may be made for the development of energy resources derived from nuclear or fossil fuel sources.

[(2) Any contract under paragraph (1) may be made only—

[(A) after the approval of the Secretary of Defense of the proposed contract; and

[(B) after the Committees on Armed Services of the Senate and House of Representatives have been notified of the terms of the proposed contract, including the dollar value of such contract and the amount of energy to be delivered to the Government under such contract.

[(c) This section shall take effect on October 1, 1978.]

Sections 505 and 808 of the Military Construction Authorization Act, 1981, Public Law 96-418

[SETTLEMENT OF CONTRACTOR CLAIMS ON MILITARY FAMILY HOUSING

[Sec. 505. Notwithstanding any other provision of law, if the proposed settlement of any contractor claim or claims arising out of the construction of new or improvement of existing family housing would cause authorized cost limitations on the construction or improvement of family housing to be exceeded, the Secretary of Defense may proceed with the settlement of such claim or claims after (1) he has submitted a report regarding such claim or claims, including the amount of the proposed settlement, to the Committees on Armed Services of the Senate and House of Representatives, and (2) a period of thirty days has elapsed after the date of submission of such report to such committees.]

* * * * * * *

[NEW BOILER PLANT CONSTRUCTION

[Sec. 808. (a) Except as provided in subsection (b) of this section, no new facility or plant which requires heat input rates of fifty million British thermal units per hour or more and which uses oil or gas (or a derivative of either) as fuel may be constructed on lands under the jurisdiction of the Department of Defense.

[(b) The Secretary of Defense may waive the provisions of subsection (a) in rare, unusual situations, but no such waiver shall become effective until after the Secretary has notified the appropriate committees of the Congress of the waiver in writing.

[(c) The Secretary of Defense may not provide heating service for any new facility or plant in increments in order to avoid the prohibition contained in subsection (a).]

Section 903 of the Military Construction Authorization Act, 1982

[CONSTRUCTION AUTHORITY UNDER A DECLARATION OF WAR OR NATIONAL EMERGENCY

[SEC. 903. (a) In the event of a declaration of war or the declaration by the President of a national emergency in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.) requiring use of the Armed Forces, the Secretary of Defense may, without regard to any other provision of law, undertake military construction necessary to support such use within the total amount of funds that have been appropriated for military construction, including funds appropriated for family housing, that have not been obligated.

[(b) Authority under subsection (a) includes authority for (1) acquisition of real estate and interests in land (including temporary interests) by lease, purchase, gift, exchange of Government-owned land, or otherwise, (2) surveys and site preparation, (3) acquisition, lease, conversion, and rehabilitation of permanent or temporary facilities, (4) appurtenances, supporting facilities, and utilities incident to such construction, (5) acquisition of and installation of equipment integral to the construction, and (6) planning, supervision, administration, and overhead incident to such construction.

[(c) The authority described in subsection (a) shall terminate at the end of the war or the end of the national emergency, as the case may be.

[(d) Whenever a decision to undertake military construction authorized by this section is made, the Secretary of Defense shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the decision and the estimated cost of such construction, including the cost of real estate actions pertaining to the construction.]

Section 305 of the Defense Housing and Community Facilities and Services Act of 1951

(42 U.S.C. 1592d)

SEC. 305. (a) With respect to any housing or community facilities or services which the Administrator is authorized to provide, or any property which he is authorized to acquire, under this Act, the Administrator is authorized by contract or otherwise (without regard to [sections 1136 and] *section* 3709 of the Revised Statutes, as amended, section 322 of the Act of June 30, 1932 (47 Stat. 412), as amended, the Federal Property and Administrative Services Act of 1949, as amended, and prior to the approval of the Attorney General) to make plans, surveys, and investigations; to acquire (by purchase, donation, condemnation or otherwise), construct, erect, extend, remodel, operate, rent, lease, exchange, repair, deal with, insure, maintain, convey, sell for cash or credit, demolish, or otherwise dispose of any property, land, improvement, or interest therein; to provide approaches, utilities, and transportation facilities; to procure necessary materials, supplies, articles, equipment, and machinery; to make advance payments for

leased property; to pursue to final disposition by way of compromise or otherwise, claims both for and against the United States (exclusive of claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials, and claims involving administrative expenses) which are not in litigation and which have not been referred to the Department of Justice; and to convey without cost to States and political subdivisions and instrumentalities thereof property for streets and other public thoroughfares and easements for public purposes: *Provided*, That any instrument executed by the Administrator and purporting to convey any right, title, or interest in any property acquired pursuant to this title or title IV of this Act shall be conclusive evidence of compliance with the provisions thereof insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned. Notwithstanding any provisions of this Act, housing or community facilities constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State and local laws, ordinances, rules, or regulations relating to health and sanitation, and, to the maximum extent practicable, taking into consideration the availability of materials and the requirements of national defense, and housing or community facilities, except housing or community facilities of a temporary character, constructed by the United States pursuant to the authority contained herein shall conform to the requirements of State or local laws, ordinances, rules, or regulations relating to building codes.

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SECTION 402 OF THE DOMESTIC VOLUNTEER SERVICE ACT OF 1973

(42 U.S.C. 5042)

AUTHORITY OF THE DIRECTOR

SEC. 402. In addition to the authority conferred upon him by other sections of Act, the Director is authorized to—

(1) * * *

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(7) allocate and expend, or transfer to other Federal agencies for expenditure, funds make available under this Act as he deems necessary to carry out the provisions hereof, including [(without regard to the provisions of section 4774(d) of title 10, United States Code),] expenditure for construction, repairs, and capital improvements;

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SECTION 3 OF THE ACT OF DECEMBER 20, 1944

(48 U.S.C. 1409b)

AN ACT To assist in the internal development of the Virgin Islands by the undertaking of useful projects therein, and for other purposes.

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SEC. 3. The Secretary is authorized to acquire, prior to the approval of title by the Attorney General if necessary (without regard to [secs.

1136, as amended, and] *section* 3709 of the Revised Statutes), improved or unimproved lands or interests in lands by purchase, donation, exchange, or condemnation for any project herein authorized. Upon completion of projects on land acquired under this section the Secretary shall forthwith transfer all rights and title of the United States therein to the government of the Virgin Islands or the municipality of Saint Thomas and Saint John, or the municipality of Saint Croix, except those projects constructed for Federal agencies. Projects authorized by this Act may be constructed without regard to the provisions of [sections 355, as amended, and 1136, as amended,] *section 355* of the Revised Statutes.

ACT OF MARCH 30, 1949

(50 U.S.C. 401)

AN ACT To authorize the Secretary of the Air Force to establish land-based air warning and control installations for the national security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Air Force is hereby authorized to establish and develop within and without the continental limits of the United States in fulfilling the air defense responsibilities of the Department of the Air Force such land-based air warning and control installations and facilities, by the construction, installation, or equipment of temporary or permanent public works, including buildings, facilities, appurtenances, utilities, and access roads, and to provide for necessary administration and planning therefor, without regard to [sections 1136, 3648, 3734, Revised Statutes] *section 3648 of the Revised Statutes* (*31 U.S.C. 529*), as he may deem necessary in the interest of national security: *Provided*, That not to exceed $85,500,000 shall be appropriated for the construction of public works authorized by this section.

The Secretary of the Air Force is authorized to procure communication services required for the semiautomatic ground environment system. No contract for such services may be for a period of more than ten years from the date communication services are first furnished under such contract. The aggregate contingent liability of the Government under the termination provisions of all contracts authorized hereunder may not exceed a total of $222,000,000 and no termination payment shall be final until audited and approved by the General Accounting Office which shall have access to such carrier records and accounts as it may deem necessary for the purpose. In procuring such services, the Secretary of the Air Force shall utilize to the fullest extent practicable the facilities and capabilities of communication common carriers, including rural telephone cooperatives, within their respective service areas and for power supply, shall utilize to the fullest extent practicable, the facilities and capabilities of public utilities and rural electric cooperatives within their respective service areas. Negotiations with communication common carriers, including cooperatives, and representation in proceedings involving such carriers before Federal and State regulatory bodies where such negotiations

or proceedings involve contracts authorized by this paragraph shall be in accordance with the provisions of section 201 of the Act of June 30, 1949, as amended (40 U.S.C.A. sec. 481).

SECTION 40 OF THE ACT OF AUGUST 10, 1956

(31 U.S.C. 649c)

AN ACT To revise, codify, and enact into law, title 10 of the United States Code, entitled "Armed Forces", and title 32 of the United States Code, entitled "National Guard"

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AVAILABILITY OF CERTAIN MILITARY APPROPRIATIONS

SEC. 40. Unless otherwise provided in the appropriation Act concerned, moneys appropriated to the Department of Defense (1) for the procurement of technical military equipment and supplies [and the construction of public works], including moneys appropriated to the Department of the Navy for the procurement and construction of guided missiles, remain available until spent, and (2) for research and development remain available for obligation for a period of two successive fiscal years.

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